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## Senate

The Senate met at 2 p.m. and was called to order by the President pro tempore (Mr. STEVENS).

### PRAYER

The Chaplain, ADM Barry C. Black, offered the following prayer:

Lord of the universe, Your power makes the oceans rise, and we rely on Your strength to live abundantly. Thank You, Lord, for the many opportunities You send us each day to do good. Do in and through us what we can never accomplish in our own strength. Use us to remove walls of suspicion, division, and hate, and to build bridges of trust, unity, and understanding throughout our world.

May we remember not to fear disappointments and setbacks because You promised that nothing can separate us from Your love. We pray this in Your strong name. Amen.

### PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. FRIST. Mr. President, today the Senate will continue to work through the appropriations process by beginning consideration of H.R. 2658, the Department of Defense appropriations bill. Last week the Senate was able to complete the military construction appropriations bill and the legislative branch appropriations bill. The hard work of Chairman STEVENS, Senator CAMPBELL, Senator HUTCHISON, and the

Democratic leader enabled us to work swiftly on those measures.

We are expected to continue this work by completing action on several more appropriations measures this week. Two additional bills are ready for action. They are the Homeland Security bill and the Labor-HHS-Education bill.

With respect to the Defense appropriations bill today, the two managers will be here throughout the afternoon and, therefore, Senators should be prepared to come to the floor to offer their amendments. Any votes ordered on those amendments will be stacked to begin at approximately 5:15 or 5:30. If an amendment is not available for a vote at that time, it would be my intent to have a vote on an executive nomination. Later this afternoon we will announce the precise time and subject of today's vote. We will have busy sessions this week to complete the bills I have previously mentioned. Therefore, rollcall votes can be expected each day.

I also want to take a moment this afternoon to thank Chairman LUGAR for his hard work and diligence throughout last week's consideration of the State Department authorization. I had hoped that the bill could have been completed last week. However, a number of extraneous issues not related to the underlying subject slowed the bill's passage. It is important and it is appropriate for the Senate to pass a State Department authorization as well as foreign aid authorization. Every Member does have a right to amend, but I would encourage Members to show restraint and allow the Senate to complete its work on this measure. There will be other opportunities for these nongermane amendments, and I hope we will be able to resume the bill for amendments that relate to the issues of the Department of State and foreign aid.

On Thursday of this week, Prime Minister Tony Blair will be addressing

a joint meeting of Congress in the afternoon. We will have further information and announcements about that as the week goes forward. I look forward to a productive week, a very busy week, and do believe we will make tremendous progress in terms of advancing these appropriations bills.

Mr. REID. If the distinguished majority leader is finished, I would like to ask a couple questions.

When we complete the work on the Defense bill, which hopefully will be this week—I am sure the leader wants it earlier rather than later—do you have an idea yet what bill we will go to after that?

Mr. FRIST. We intend to go to either Homeland Security or Labor-HHS. I will turn to the distinguished chairman either now or in a few minutes to comment on that as we go forward.

The PRESIDING OFFICER (Mr. ROBERTS). The Senator from Alaska.

Mr. STEVENS. Mr. President, we are ready to go on either bill. We are trying to assure the presence of the ranking members and chairmen of those subcommittees. I prefer to give you that information later today if I may.

Mr. REID. The second question or statement is that Senator BYRD and others have no problem going forward on this bill today. We would just ask that there be no agreements on time until that is cleared with this side. Agreements on time and things of that nature, we would like to be advised if there are time agreements that are needed. We would be happy to be cooperative, but we would at least like to know about that.

Mr. FRIST. Mr. President, I yield to the chairman.

Mr. STEVENS. Mr. President, we know of only two amendments so far that may come toward this bill. We would encourage Members to come forward and tell us if they are going to offer amendments. It would be our hope that we could proceed with this bill in a fashion that we could come to a final

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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conclusion tomorrow afternoon and vote on this bill tomorrow afternoon and take up one of the other bills so we can move these bills along. This bill came out of our committee unanimously. We have taken care of most of the amendments in our committee. We will cooperate with you in every way to give you advance notice on the votes. If we can find out the number of amendments that are coming, we might even be able to make arrangements that we would vote early tomorrow morning on the amendments on this bill and just have one vote on the executive calendar.

Mr. REID. Mr. President, through you to the distinguished chairman of the committee, I have spoken to Senator BYRD today, and he may want to give a statement today. But he has indicated he certainly does tomorrow. He and I have talked. There are a number of people who at this stage have not indicated they want to offer amendments, but they do wish to make statements on this very important bill. At this stage there are four or five Senators wishing to do that. That will take a little bit of time in the morning but should not take a lot of time. I only know of four or five. And as soon as I learn about amendments, I will certainly let the distinguished ranking member know about those amendments.

Mr. FRIST. Mr. President, I yield the floor.

#### RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

#### DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2004

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of H.R. 2658, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 2658) making appropriations for the Department of Defense for the fiscal year ending September 30, 2004, and for other purposes.

The PRESIDING OFFICER. The distinguished Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, it is my privilege and honor once again to present to the Senate the Defense appropriations bill for fiscal year 2004. This bill reflects a bipartisan approach that Senator INOUE and I have tried to maintain during the time we have served together on the Defense Appropriations Subcommittee. It is always a great pleasure for me to work with him and with his staff member Charlie Houy. We believe we have a bill that will meet the approval of the Senate with very few amendments.

This bill was reported out of the full Appropriations Committee on July 9 by a unanimous vote; 29 Senators voted in favor of it and no Senator objected to

it. We have sought to recommend a balanced bill to the Senate. We believe it addresses the key requirements for readiness, quality of life, and the reconstitution of our military force.

While we are debating this bill on the floor today, there are hundreds of thousands of men and women in uniform forward deployed and serving our country abroad. They are performing superbly and we are proud of what they are accomplishing.

The Department of Defense now faces three critical and often competing challenges:

First, conducting simultaneous combat and near-combat operations in numerous theaters at the same time—Iraq, Afghanistan, Bosnia, and Kosovo, to name a few. We have forces spread throughout the world, deployed in more areas and in more strange circumstances than at any time in the history of this country;

Secondly, keeping the readiness of this force at high levels, ready to respond when called upon to carry out the global war on terrorism, is another great challenge;

Lastly, transforming the Department to meet future challenges. We must ensure that our military forces are ready to meet whatever lies ahead as we move through the 21st century.

Transformation is necessary to ensure that U.S. forces continue to operate from a position of overwhelming military advantage.

Transformed forces are also essential for deterring conflict, dissuading adversaries, and assuring others of our commitment to a peaceful world.

This bill Senator INOUE and I present today reflects a prudent balance among all three of these challenges. It recommends \$368.6 billion in discretionary budget authority programs for the Department of Defense. This is \$3.2 billion below the President's request but within our 302(b) allocations for the Defense subcommittee.

As the Senate will recall, we completed action on a \$62.6 billion Iraq supplemental appropriations bill for the Department of Defense in mid-April. This bill rescinds \$3.157 billion of those supplemental funds that are not currently required by the Department.

This measure is fully consistent with both the objectives of the administration and the Senate-passed 2004 National Defense authorization bill.

It honors the commitments we have to our Armed Forces. It helps ensure that they will continue to have good leadership, first-rate training, modernized equipment, and quality infrastructure. It also fully funds key readiness programs critical to the global war on terrorism.

These recommendations will make continued progress in supporting our military personnel, their families, and modernizing the force. As always, those are our first priorities.

In highlighting several of the key initiatives, I note the following:

This bill funds an average military pay raise of 4.15 percent and provides \$210 million to fund increases in family separation allowances and imminent danger pay.

It does not recommend consolidation of Guard and Reserve personnel appropriations with their respective active component appropriations.

For the Army, it is additional funding for their transformation initiative—the Stryker brigade combat teams.

For the Navy, additional submarine refuelings, advance procurement of LPD-23, and fully funding the last increment of the LHD-8.

For the Air Force, it is fully funding the C-17 aircraft and funding acquisition of 22 F-22 Raptor aircraft.

In light of the contributions of the Guard and Reserve forces and deployments to the Balkans, Afghanistan, and Iraq, this bill adds \$700 million of nondesignated equipment funding—specifically for the Reserve components.

The proposal before the Senate funds the President's request for missile defense.

Finally, let me once again thank my cochairman, Senator INOUE, for his support and friendship and invaluable counsel on this bill. I urge the Chair to recognize him for any statement he wishes to make.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUE. Mr. President, I rise to express my very strong support for this measure. The committee has produced a bipartisan bill which reflects well on the committee and on the Senate.

It has often been said that foreign policy debates should stop at the water's edge. This bill holds true to that principle. This bill provides for our Nation's defense without letting politics drive the recommendations.

I commend our chairman, the Senator from Alaska, for the bill being brought to the Senate this afternoon. This important measure provides the spending necessary for the Defense Department for fiscal year 2004. The total in the bill is about \$369 billion, as noted by the chairman. It is \$3.2 billion below the amount requested by the President, but it is the same as the subcommittee's 302(b) allocation.

Mr. President, I don't intend to reiterate all of the details the chairman has outlined. Suffice it to say that the bill fully funds our military personnel programs, including the authorized pay raise. It provides sufficient funding to meet our readiness requirements for the coming year, and it also increases funding for DOD's critical transformation programs.

I wish to inform all of my colleagues that consistent with the administration's request, no funds are included in this bill for the ongoing operations in Afghanistan and Iraq.

A portion of the fiscal year 2003 supplemental funds provided this year will remain available in the coming year to help offset these needs. But I believe it

should be made clear that an additional supplemental funding will most likely be required in the next fiscal year. Only a dramatic improvement in the situation in Iraq and in Afghanistan would obviate the need for additional funding for these purposes.

I want to offer my personal thanks to the chairman for increasing funding in support of the Army's Stryker brigades and the C-17. These two programs are critical to the military's transformation plans. The added funding will greatly assist DOD in meeting its goals.

The Chairman has presented us with a very good bill, and I encourage all of you to support it wholeheartedly.

I wish to join my chairman and the Members of the Senate in extending our gratitude and admiration for the men and women who are serving us this day. I hope this measure in some small way will indicate to them our gratitude and our great admiration.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, the managers of this bill, of course, are two of the most talented and experienced men who serve in the Senate and who have ever served here, and their cooperation and partnership in moving this bill through the Senate in years past has been legendary. I am sure this year will be no different.

The work that has been done in the Defense Subcommittee has created a lot of jobs. There is no question about that. It is one of the bright spots in the economic pattern of our country. As a result of what is going on in defense, jobs have been created. But it is not that way throughout most of the economy. Most of the economy is in dire jeopardy, suffering all kinds of problems. I know we all wish the news about unemployment would get better, but it keeps getting worse. That is unfortunate.

Late last week, the Labor Department released some of the worst news we have had in a long time as relates to the economy. The number of U.S. workers filing for unemployment benefits rose to a 20-year high, 439,000. Since President George Bush took office, we have lost more than 3.1 million jobs—it is quickly approaching 3.2 million jobs—in the private sector.

Unemployment overall jumped last month to 6.4 percent. That does not include those who have given up hope and stopped looking for work and are not included in the 6.4 percent. If we counted all the people chronically unemployed, people who simply cannot find a full-time job, the total unemployment rate would be almost 11 percent. Even worse, we find that the unemployment rate for African Americans, Hispanics, and Asians is higher, and for teenagers who look for summer jobs to help pay for expenses during the school year, the job is especially bleak.

In Nevada, we have just in the lower figure—that is the 6.4 percent; that is

those who are not chronically unemployed—some 55,000 people who cannot find work. People want work. They know the American dream begins with a good job. It begins with owning a home. It begins with giving your children a good education and building a better community. But all this starts with a good job.

I have on this chart what has happened since this President has taken office. During the Clinton administration, some 23 million new jobs were created. In this administration, we have a President, for the first time since we have been keeping numbers, who in multiyears has lost jobs. As I indicated, we are approaching 3.2 million.

On this chart, we can see that when he took office, there were 5.9 million unemployed Americans. Now there are 9.4 million. It is easy to talk about numbers and percentages. Every one of these numbers is made up of people who are looking for work.

I was talking to the junior Senator from Washington. It is hard to comprehend these numbers, but Boeing laid off 35,000 people at once. All at once, 35,000 people got blue slips. We are laying off people all the time.

As I have indicated, we have in Nevada tens of thousands of people who cannot find work, and Nevada has a better unemployment record than a lot of places.

Each person who makes up these numbers is someone who was working for Boeing, who was working someplace, and is willing to work anyplace, but cannot find a job.

You can look at a doctor's chart and find out what is wrong with a patient. I think we need to look at this chart and recognize that this patient, the American economy, is in deep trouble. We have people who simply need a job.

The President has not prescribed anything I know of to increase employment other than tax cuts. If tax cuts had been the answer to solve the problems in the economy, the first go-round of tax cuts would have been just the thing.

It did not work; so what does he do? He comes back and says: We are going to have this economy running well; we are going to cut taxes some more. He cut taxes some more.

We had a surplus when this President took office when the unemployment numbers were below 6 percent. We had a situation where we had a surplus over 10 years of more than \$7 trillion. That surplus is gone. It is zero. This year, we will have the largest deficit in the history of the world. It will be around \$600 billion. We see the printed figures in newspapers and commentary on television. It is over \$400 billion, approaching \$500 billion. Of course, that does not take into consideration the fact that the Social Security surpluses are placed in there to mask the overall deficit.

The President said: Things were not so good when I got the economy. You

cannot pass the buck, as President Truman said.

The buck stops at his office. What we have found is massive unemployment. We have hemorrhaging of the economy. We find that some of this is related to the war on terrorism—we realize that—about 20 to 25 percent of it. The rest is just bad economic policy.

What the President inherited was an incredible record of job growth. I repeat what I said a moment ago, 23 million new jobs in 8 years. Every one of those new jobs was another door of opportunity opening. Every one of these job losses is a door of opportunity closing. Every time a job has disappeared, the American dream has slipped from another family's grasp.

What should we do? I think it is clear what has been going on has not worked. We tried the tax cut route once, and it did not work. We tried it again, and it is still not working. We are all against taxes. It would be great if no one had to pay taxes. In fact, people would rather have a strong, vibrant economy than have these tax cuts, of course, that go to those people who are better off in our economy, the so-called elite.

Let's do something different. I would expect if things are going so bad, maybe we should have another round of tax cuts. I am afraid that is what we are going to hear from this administration. Instead of more tax breaks for the elite, who have plenty, we need to do something to create jobs for those who cannot find work.

Prior to September 11, I had a program called the American Marshall Plan. It was a program where we would spend money in the public sector creating jobs—water systems, sewer systems, bridges, roads, dams. Every State of the Union has massive projects on the drawing board that we cannot fund. The Energy and Water Development Subcommittee, of which I am ranking member and Senator DOMENICI is now the chairman—I was the chairman a short time ago—we have hundreds of water projects we have authorized and for which we cannot pay. There are hundreds of them. Should we deauthorize them? These are not water projects just to make people feel good. They are flood projects. They are massive projects.

I traveled to the State of Washington with Senator CANTWELL to look at the Hanford Project. They call it the Hanford reservation where nuclear projects have taken place since World War II. They have some tremendous problems with nuclear waste. I traveled there. I traveled also to Yakima, WA, and met with a group of people, Democrats and Republicans, about a public works project they believe would be so important. It would help the Columbia River. It would help the Yakima River. It would help growth in that area in many different ways. We can authorize another water project, one that is badly needed. We have to figure a way to pay for these projects, expend money for these projects.

For every billion dollars we spend on a public works project, whether it is highways, putting in a sewer system in a State, city, or county, we create 47,000 high-paying jobs, jobs where people will buy refrigerators, furniture, cars, and homes. Those 47,000 jobs create more jobs. It seems if we spend a few billions doing that rather than just tax cuts that have not created any jobs we would be so much better off.

The average school in America is approaching 50 years of age. Then there are places such as Clark County, Nevada where we have to build as many as 18 new schools a year just to keep up with the growth. We need help building these schools. We need help on roads, bridges.

There was an article last week in the newspapers about 40 percent of all bridges in the United States are in a state of disrepair. We have some bridges we have had to stop people from traveling over. Some schoolbuses let the kids out and let the kids walk across the bridges, and they climb back on the bus when they get on the other side because the bridges are in such a state of disrepair.

There are broken water pipes. I held a hearing prior to September 11. There were mayors of the city of Atlanta, Las Vegas—I am trying to think of the other cities around the country. Atlanta, I have that stuck in my mind because it was such a terrible situation. In fact, the mayor said, I am looking forward to my term ending because then I will not have to wake up every morning wondering if the water system is broken down. It is old, dilapidated, decayed. To do their water system is going to cost billions of dollars.

Some of the water pipes in existence in Washington, DC, are 150 years old. One wonders if there are leaks and problems. Of course there are.

I will not go through all the other mayors who appeared but there are significant problems. We need to help them. We can do that with public works dollars. It has to be done some time anyway. Why not do it now to help stimulate this economy? We can create new jobs by promoting new technologies and producing energy from renewable nonpolluting sources. Those will not only create jobs, they will help us achieve energy independence. We can save existing jobs by helping our financially burdened States so they do not have to raise taxes on working families or small businesses.

I think it speaks volumes if we look around the country. I spoke today to the Governor of the State of Pennsylvania. The legislature is having trouble

determining how they are going to fund all the things that are required to be done in the State of Pennsylvania. The Governor is waiting for the legislature to determine how they are going to do that.

In the State of Nevada, the Governor of the State of Nevada had to call three or four special sessions of the State legislature to try to figure out a way to fund the budget they had passed. They could not do it. The Governor filed a lawsuit with the Nevada Supreme Court and the court ruled as to how the legislature is going to fund the money. What a crazy way to do business.

The reason the States and local governments are having all of these problems is the Federal Government has backed off on many commitments that we have had. We have passed on burdens to the States, unfunded mandates, in education and in homeland security. The States are paying for this, local governments are paying for this, and that is why we find 47 of the 50 States in deep financial trouble.

The king of financial troubles, of course, is the State of California, with a deficit of some \$35 billion. The tiny State of Nevada had a deficit of a billion dollars. There is a constitutional requirement in Nevada that they have to balance the budget. Therefore the Supreme Court had to get into that.

We can reverse this awful trend. We can save the jobs we have and help create new ones but we have to be willing to do something different than what is going on now.

I, again, applaud my two friends and mentors, role models, who are managing this bill. I am confident that if we have a bill that has their fingerprints on it, it is something that is good for the national security of this country and I am sure in a reasonably short period of time this bill will become law.

As I indicated in my conversations this morning with the majority leader and the chairman of the committee, I know several people who want to speak on this issue. I do not see a lot of amendments but there will be some amendments on this legislation in an attempt to make it better than what it is. I look forward to working with my two friends to move this legislation along as quickly as possible.

The PRESIDING OFFICER. The Senator from Alaska.

AMENDMENT NO. 1217

Mr. STEVENS. Mr. President, there is a substitute amendment at the desk and I ask for its consideration. For the information of all Senators, the

amendment is the text of the Senate-reported bill.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 1217.

(The text of the amendment is printed in today's RECORD under "Text of Amendments.")

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALEXANDER. Mr. President, I ask unanimous consent to speak for up to 15 minutes as if in morning business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

(The remarks of Mr. ALEXANDER are found in today's RECORD under "Morning Business.")

Mr. NICKLES. Mr. President, I rise in support of S. 1382, the Department of Defense appropriations bill for fiscal year 2004, as reported by the Senate Committee on Appropriations.

I commend the distinguished chairman and the ranking member for bringing the Senate a carefully crafted spending bill within the Subcommittee's 302(b) allocation and consistent with the discretionary spending cap for 2004.

The pending bill provides \$369.2 billion in budget authority and \$389.9 billion in outlays in fiscal year 2004 for the Department of Defense. Of these totals, \$528 million is for mandatory programs.

The bill provides \$368.637 billion in discretionary budget authority, \$25 billion less than the subcommittee's 302(b) allocation. The bill provides \$389.371 billion in discretionary outlays, \$16 million below the 302(b) allocation. Pursuant to an agreement with the administration, the bill provides \$3.062 billion less budget authority than was in the President's Defense budget request. These funds were shifted to other nondefense spending bills.

Mr. President, I ask unanimous consent that a table displaying the Budget Committee scoring of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1382, DEFENSE APPROPRIATIONS, 2004, SPENDING COMPARISONS, SENATE-REPORTED BILL  
[Fiscal Year 2004 (in millions of dollars)]

	General purpose	Mandatory	Total
Senate-reported bill:			
Budget authority .....	368,637	528	369,165
Outlays .....	389,371	528	389,899
Senate 302(b) allocation:			
Budget authority .....	368,662	528	369,190
Outlays .....	389,387	528	389,915

## S. 1382, DEFENSE APPROPRIATIONS, 2004, SPENDING COMPARISONS, SENATE-REPORTED BILL—Continued

[Fiscal Year 2004 (in millions of dollars)]

	General purpose	Mandatory	Total
2003 level:			
Budget authority .....	426,621	393	427,014
Outlays .....	393,835	393	394,228
President's request:			
Budget authority .....	371,699	528	372,227
Outlays .....	393,220	528	393,748
House-passed bill:			
Budget authority .....	368,662	528	369,190
Outlays .....	388,836	528	389,364
SENATE-REPORTED BILL COMPARED TO:			
Senate 302(b) allocation:			
Budget authority .....	(25)		(25)
Outlays .....	(16)		(16)
2003 level:			
Budget authority .....	(57,984)	135	(57,849)
Outlays .....	(4,464)	135	(4,329)
President's request:			
Budget authority .....	(3,062)		(3,062)
Outlays .....	(3,849)		(3,849)
House-passed bill:			
Budget authority .....	(25)		(25)
Outlays .....	535		535

Note: Details may not add to totals due to rounding. Totals adjusted for consistency with scorekeeping conventions.  
Prepared by SBC Majority Staff, 7/10/2003.

The PRESIDING OFFICER (Mr. CHAMBLISS). The Senator from Alaska.

Mr. STEVENS. Mr. President, just before I left the floor, I asked that the substitute amendment, which is the text of the Senate-reported bill, be reported. I now ask unanimous consent that the Senate adopt this amendment, make it original text for the purpose of further amendment, and the usual boilerplate language that goes along with that. But I would like to proceed at that point, and I do have Senator BYRD's concurrence on this at this time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 1217) was agreed to.

Mr. STEVENS. I yield the floor.

Mr. President, I understand the Senator from New Mexico wishes some time.

Mr. BINGAMAN. Mr. President, I ask unanimous consent to speak for up to 20 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. BINGAMAN are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I have now served with 11 Directors of Intelligence during my tenure as a Senator. I think I have known each of them personally. In fact, my roots in connection with the intelligence process go back to World War II when I flew an OSS plane into China frequently, and I have had a great deal of interest in the CIA and its operations.

I have learned in that timespan that intelligence—good intelligence—is essential to force projection and protection of our Nation. Unfortunately, we cannot publish a list of the numerous occasions in which men and women in the intelligence community have literally saved the lives of U.S. military and civilian personnel. Sometimes I wish we could tell the whole story. It

would put into better perspective the few mistakes the intelligence community sometimes makes.

However, mistakes in interpreting intelligence data can and will be made. The CIA has not often admitted blame for serious mistakes. Taking responsibility has not been their strong suit in the past, and I have not always been happy with the information the CIA has produced.

In working with the intelligence chief, George Tenet, to fully disclose information we have needed to determine proper funding levels in our Appropriations Committee for programs and projects he oversees, I can assure the Senate he has always been fair, just, and open with us.

Mr. Tenet is responsible for the accuracy of intelligence information his agency provides to the President and the Congress, and he has now acknowledged the CIA's error in interpreting data relating to the President's State of the Union comment about Iraq.

For this I think he should be commended, and that is why I have come to the floor: to commend him for his action. Few in this town often take the clear path to acknowledge error. The intelligence and defense committees are rightly investigating the events leading up to this mistake, but I am hopeful that as the Congress and the executive branch proceed to determine how this mistake occurred, all realize that those of us who work with him on a daily basis, including the President, trust and rely on George Tenet and are ready to defend him as a good man and excellent DCI and a man of intelligence, honesty, and candor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I have been conferring with our staff, with Senator INOUE's staff, and with Senator INOUE. We request any Member who wants to present an amendment for inclusion in a managers' package to disclose that amendment to us by 3 tomorrow afternoon. We make that request because we do have the necessity of having full disclosure of what is in that package. It is often easier to handle some of these very small amendments that move money from one place to another or have a particular interest for one post or one military establishment or another, and we prefer to handle it in the way of offering those as one series of amendments in a managers' package if we can.

We cannot do that unless people come forward and contact us. We have knowledge of several Members who have small amendments of that type, and we wish them to know at this time that in order to get this package cleared in advance with Senator MCCAIN and others we want to have those disclosed to us by 3 tomorrow or the Members will be compelled to offer the amendments individually.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 1224, 1225, 1226, AND 1227 EN BLOC

Mr. STEVENS. Mr. President, I send an amendment to the desk for Senator INHOFE to make available from amounts available for research, development, test and evaluation, Air Force, \$4 million for cost-effective composite materials for manned and unmanned flight structures.

I also send to the desk an amendment for Senator DODD to increase the

amount of Army RDT&E funds available for the broad area unmanned responsive resupply operations aircraft program.

I also send an amendment to the desk by Senator SNOWE to set aside Navy operation maintenance funds for the Navy Pilot Human Resources Call Center in Cutler, ME.

I also send an amendment to the desk for Senator BREAUX to make available from amounts available for research, development, test and evaluation, Navy, \$4 million for Navy integrated manufacturing development.

I ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for other Senators, proposes amendments numbered 1224 through 1227 en bloc.

Mr. STEVENS. Mr. President, I ask unanimous consent that the amendments be agreed to en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments were agreed to en bloc, as follows:

#### AMENDMENT NO. 1224

(Purpose: To make available from amounts available for Research, Development, Test, and Evaluation, Air Force, \$4,000,000 for cost effective composite materials for manned and unmanned flight structures)

Insert after section 8123 the following:

SEC. 8124. Of the amount appropriated by title IV of this Act under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE", up to \$4,000,000 may be available for cost effective composite materials for manned and unmanned flight structures (PE#0602103F).

#### AMENDMENT NO. 1225

(Purpose: To increase the amount of Army RDT&E funds available for the Broad Area Unmanned Responsive Resupply Operations (BURRO) aircraft program (PE 0603003A))

On page 120, between lines 17 and 18, insert the following:

SEC. 8124. Of the total amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY", up to \$3,000,000 may be used for the Broad Area Unmanned Responsive Resupply Operations aircraft program.

#### AMENDMENT NO. 1226

(Purpose: To set aside Navy operation and maintenance funds for the Navy Pilot Human Resources Call Center, Cutler, Maine)

On page 120, between lines 17 and 18, insert the following:

SEC. 8124. Of the total amount appropriated by title II under the heading "OPERATION AND MAINTENANCE, NAVY" for civilian manpower and personnel management, up to \$1,500,000 may be used for Navy Pilot Human Resources Call Center, Cutler, Maine.

#### AMENDMENT NO. 1227

(Purpose: To make available from amounts available for Research, Development, Test, and Evaluation, Navy, \$4,000,000 for Navy Integrated Manufacturing Development)

Insert after section 8123 the following:

SEC. 8124. Of the amount appropriated by title IV of this Act under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY", up to \$4,000,000 may be available for Navy Integrated Manufacturing Development.

Mr. STEVENS. I move to reconsider the vote.

Mr. INOUE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, this is an example of some of the amendments that we are trying to process as quickly as possible. They have been referred to Members involved, including Senator MCCAIN. They have been cleared for action. I urge Members of the Senate to come forward if they have such amendments so we might be able to dispose of them this afternoon.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. STEVENS. Mr. President, for the leader, I ask unanimous consent that at 5:30 today the Senate proceed to executive session and an immediate vote on the confirmation of Calendar No. 293, Samuel Der-Yeghiayan, of Illinois to be a U.S. District Judge for the Northern District of Illinois, without further intervening action or debate; provided further that immediately following that vote, Calendar No. 292, Robert Brack, to be a U.S. District Judge for the District of New Mexico, be confirmed, and the motion to reconsider be laid upon the table. Finally, I ask unanimous consent that following that action, the President be immediately notified of the Senate's action and the Senate resume legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, I believe this will be the 137th and 138th judge we have approved of President Bush, and only two have been opposed. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, a few minutes ago I misspoke in my reservation of objection. I indicated that it was the 137th judge we would approve. It is 135.

The first one would be 134. The second would be 135. I exaggerated by two. I want that stricken from the record. I didn't exaggerate. I simply made a calculation that was wrong. We have approved 135 judges for President Bush, and we have stopped two. The record is 135 to 2.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ENSIGN). Without objection, it is so ordered.

#### MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business until the hour of 5:30 p.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak for 10 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### DEFENSE APPROPRIATIONS

Mr. DORGAN. Mr. President, I believe the Senate will be voting this afternoon on a judiciary nomination, but in the meantime, most of this afternoon, and I expect tomorrow and perhaps even the next day, we will be on one of the most important appropriations bills we consider in the Senate, and that is the appropriation for the Department of Defense.

Most of us know that in recent years we have been faced with some very unusual circumstances that deal with national security both at home and around the world. National security is critically important to this country, both protecting our homeland against acts of terrorism and also dealing with trouble spots around the world that threaten our national interests.

So as we consider a bill providing the funds for our national defense through the Department of Defense, I wish to say a couple of things. First, I thank Senator STEVENS and Senator INOUE. I happen to serve on the subcommittee on which they are chairman and ranking member, and I think they have

done a remarkable job with this legislation. They should be commended by every Member of the Senate for the work they do on national defense. I think if all America could see them as they work through subcommittee and committee and work with the Department of Defense trying to understand and analyze all of the programs that are involved with defense issues, they would understand how blessed this country is in having the leadership of the Senators from Alaska and Hawaii at this point.

But, in this debate, I think we are missing a piece to the puzzle of national defense. This bill is a very large bill, it is a very complicated bill, and in introducing the bill I believe my colleagues indicated that this legislation, while very large, does not have any funding in it for the military operations in the country of Iraq.

Now, why is that an issue and why is it important? Because at this point we are spending \$3.9 billion, nearly \$4 billion, a month in Iraq. There was an aggressive war fought in Iraq with valiant and brave young men and women who answered the call to duty, and now, following the major part of that war, hostilities continue in Iraq. It breaks the hearts of all of us to see the deaths and the continuing struggle many of our soldiers are going through in Iraq, but they will and we will prevail.

However, it is clear to everyone from the testimony last week of Secretary Rumsfeld and others that this will not be done quickly. This country is not going to pull out of Iraq in 1 month or 2 months or 4 months. We now have roughly 140,000 to 150,000 troops in Iraq, and this weekend Secretary Rumsfeld and others suggested that that we may have to be increase that number. If we are in fact spending nearly \$4 billion a month in Iraq, and there is a suggestion perhaps that we will do that for a year, we are talking \$48 billion to \$50 billion a year in expenditures.

We know that is happening. We know that at the start of the fiscal year we will be spending money in Iraq. It is likely to me it will be at least at the level that exists this month, last month, or the month before. If that is the case, then the question is: Where is the money going to come from? As I understand it, there is not one penny in this Defense appropriations bill to fund those needs that exist to support the troops in Iraq.

What would typically happen, I suppose, is the funding of \$4 billion a month would be taken out of other programs and shifted around to fund the programs in Iraq and the soldiers who are in Iraq and all the equipment and the needs month after month. And then at some point the administration would send a supplemental appropriations request saying, we have an emergency request for Congress to appropriate \$36 billion to \$40 billion to fund those items that respond to the needs of the military that is in Iraq.

It seems to me that, rather than the administration coming to us 6 months or 10 months from now, asking to come up with another \$30, \$40, or \$50 billion on an emergency basis and adding it to the debt and not paying for it, a far better approach would be, since we know the expenditure will exist, since we know this requirement exists, a better approach would be for the President to send us a budget amendment; a budget amendment by which this President would say to the Congress, here is the need and here is how we pay for it.

The administration should say this is what is happening today in the country of Iraq. We have American soldiers, men and women wearing America's uniform, in substantial numbers, costing \$3.9 billion a month, according to the Secretary of Defense. We know that exists now. We also know that this country is not going to withdraw from Iraq any time soon.

So we know on October 1, when the next fiscal year begins, this requirement exists. Therefore, we request the Congress to appropriate X billions of dollars to meet that requirement.

That is a straightforward way for this administration to say: Here is what it is costing us and here is how we think we ought to pay for it. We should not be in a situation in this country where we say to America's sons and daughters: You go to war; and by the way, when you come back we will have you pay the bill. If they are risking their lives and answering the call to duty for this country, the very least we ought to do is to decide how much this is going to cost and how we will pay for it.

There will be, I am sure, many voices of criticism of many items in all of these issues dealing with national security and the war in Iraq, intelligence, the state of the intelligence information, the quality of the information, who knew what when. All of those are important issues for our country. My point is not to be critical of any operation or anyone. My point is to say this Congress knows when we pass this appropriations bill that we have a responsibility to fund the operations in Iraq. Those operations now cost somewhere between \$45 and \$50 billion a year at an annual rate. Yet there is not a penny in this Defense appropriations bill for those purposes.

Why? Because the administration has not asked for it. They might say, but we have not done that in the past, not only this administration but other administrations. That is true. In the past, other operations have been funded later by emergency requests. This operation, however, is much larger, is much more certain to go on for a lengthier period of time, and this operation in Iraq requires the President to send an amended budget request of some type, saying here is what we expect the estimate to be for the next fiscal year, and here is the funding we would like. Then this Congress has a

responsibility to respond to the President in an appropriate way.

It is Byzantine to be passing a Defense appropriations bill pretending that the \$4 billion a month we are spending on the military operations in Iraq does not exist. We know it exists. We have a responsibility to provide the funding for it, not 10 months from now but now.

Let me make one additional point. I mentioned the men and women who have answered the call to duty. Many of them are National Guard men and women, reservists. They are the citizen soldiers of this country. They have regular jobs, they live in regular homes, have regular families, and they lead a normal life. But they are citizen soldiers. They drill on weekends. They go to a summer camp for the National Guard and Reserve and from time to time during emergencies they are deployed. They are called up to active duty.

In the last 4, 5, or 6 years, the National Guard has been used in a much different way than ever before. Especially now with Afghanistan and Iraq, we routinely see substantial numbers of National Guard forces called up and deployed.

Nearly one-third of those who are engaged in the National Guard and Reserve in my State of North Dakota have been deployed on active duty. Many of them were deployed in Bosnia, Kosovo, and now the same ones are sent to Iraq or Afghanistan. There will come a time to rethink what we are doing with our National Guard and Reserves. I fear that many of our citizen soldiers—probably at the urging of their families—will not be reenlisting if we continue to use the National Guard and Reserve the way they have been used the last several years. To ask them to go and be deployed for 6 months, 9 months, a year, with no notion of when that deployment ends is a very troublesome circumstance for the Guard and Reserve.

They are proud to serve. They have done a magnificent job. I think all of America is proud of the National Guard and Reserve. But at this point the Secretary of Defense needs to think through how we develop a rotation plan in order to be able to tell them and their families when they might be rotated back to this country, when they might rejoin their families, and when they might be reporting back to their jobs.

It is a very difficult circumstance for everyone who serves in these theaters, but it is especially difficult for those who have been mobilized and deployed as a part of Guard and Reserves. They do not complain about it. They are wonderful, brave young men and women, as are all of those who wear America's uniform, but the Secretary needs to think through how we begin rotation plans to let them and their families understand how long these rotations will last.

I yield the floor.



## EXECUTIVE SESSION

# NOMINATION OF SAMUEL DER-YEGHIAYAN, OF ILLINOIS, TO BE A U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ILLINOIS

The PRESIDING OFFICER. Under the previous order, the Senate will go into executive session.

The clerk will report the nomination.

The legislative clerk read the nomination of Samuel Der-Yeghiayan, of Illinois, to be U.S. District Judge for the Northern District of Illinois.

Mr. FITZGERALD. Mr. President, at 5:30 we are going to be voting on a nomination to the Federal bench for the northern district of Illinois. The nominee is Samuel Der-Yeghiayan from Vernon Hills, IL. Senator DURBIN and I have recommended Samuel Der-Yeghiayan to President Bush, who has appointed Sam, and he has been confirmed out of the Senate Judiciary Committee. I will say a couple of words in support of his nomination.

Since 1978, Mr. Der-Yeghiayan has worked in the United States Department of Justice Immigration and Naturalization Service first as a trial attorney in Chicago, later as acting district director, acting trial appellate attorney, and for about 18 years the chief district counsel for the INS in Chicago. He has a very good reputation.

Everyone, whether Republican or Democrat, from the many different communities in Chicago speaks very highly of Samuel Der-Yeghiayan. He has a very good reputation in legal circles in Illinois.

Since the year 2000 he has been acting as an immigration review judge in the United States Department of Justice Executive Office for Immigration Review. Sam Der-Yeghiayan has his JD degree from Franklin Pierce Law Center in New Hampshire. He was on the Law Review at Franklin Pierce.

There is an interesting aspect to Mr. Der-Yeghiayan's background that I think makes him somewhat unique. I am advised that he would be the first immigrant of Armenian descent ever to be named to the Federal bench. Mr. Der-Yeghiayan is himself an immigrant, having come to this country at an early age, and has done very well.

I am very proud of his nomination. I believe he is a very fine man, has a wonderful family, and he will be a great asset to our Federal judiciary.

I thank my colleagues and I thank Senator DURBIN for his support for the nominee.

Mr. HATCH. Mr. President, I rise today in support of the nomination of Samuel Der-Yeghiayan to be United States District Judge for the Northern District of Illinois.

Judge Der-Yeghiayan has contributed much to the legal community over his 25 year career, particularly in the area of immigration law. Upon graduation from Franklin Pierce Law Center, Judge Der-Yeghiayan joined

the U.S. Department of Justice as a trial attorney with the Immigration and Naturalization Service. After spending several years as a trial attorney, he was appointed District Counsel for the INS in Chicago, IL. In 2000, he became an immigration judge with the Department of Justice's Executive Office for Immigration Review, the position in which he currently serves.

Over the course of his career, Judge Der-Yeghiayan has represented the Government in deportation, exclusion, and other immigration-related hearings. He has handled issues relating to constitutional, labor, criminal, and administrative law arising from the enforcement of immigration laws. As a judge, he has presided over court proceedings and trials related to removal, deportation, exclusion, and asylum cases. He has also done a substantial amount of pro bono work educating congressional staff, State attorneys, bar associations, and law enforcement agents on immigration issues. In addition, as a judge, he provides training to pro bono immigration attorneys.

I have every confidence that he will make an excellent Federal judge. I commend President Bush for nominating him, and I urge my colleagues to join me in supporting his nomination.

Mr. FITZGERALD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Samuel Der-Yeghiayan, of Illinois, to be United States District Judge for the Northern District of Illinois? The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announced that the Senator from Utah (Mr. BENNETT), the Senator from Alabama (Mr. SESSIONS), the Senator from Oregon (Mr. SMITH), and the Senator from New Hampshire (Mr. SUNUNU) are necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Iowa (Mr. HARKIN), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Maryland (Ms. MIKULSKI), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

I further announce that, if present and voting, the Senator from Iowa (Mr. HARKIN) and the Senator from Massachusetts (Mr. KERRY) would each vote "yea".

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 89, nays 0, as follows:

[Rollcall Vote No. 275 Ex.]

YEAS—89

Akaka	Allard	Baucus
Alexander	Allen	Bayh

Biden	Domenici	Lott
Bingaman	Dorgan	Lugar
Bond	Durbin	McCain
Boxer	Ensign	McConnell
Breaux	Enzi	Murkowski
Brownback	Feingold	Murray
Bunning	Feinstein	Nelson (FL)
Burns	Fitzgerald	Nelson (NE)
Byrd	Frist	Nickles
Campbell	Graham (SC)	Pryor
Cantwell	Grassley	Reed
Carper	Gregg	Reid
Chafee	Hagel	Roberts
Chambliss	Hatch	Rockefeller
Clinton	Hollings	Santorum
Cochran	Hutchison	Sarbanes
Coleman	Inhofe	Schumer
Collins	Inouye	Shelby
Conrad	Jeffords	Snowe
Cornyn	Johnson	Specter
Corzine	Kennedy	Stabenow
Craig	Kohl	Stevens
Crapo	Kyl	Talent
Daschle	Landrieu	Thomas
Dayton	Lautenberg	Voinovich
DeWine	Leahy	Warner
Dodd	Levin	Wyden
Dole	Lincoln	

## NOT VOTING—11

Bennett	Kerry	Sessions
Edwards	Lieberman	Smith
Graham (FL)	Mikulski	Sununu
Harkin	Miller	

The nomination was confirmed.

# NOMINATION OF ROBERT C. BRACK TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF NEW MEXICO

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I ask unanimous consent that it be in order that I speak for 1 minute with reference to the nomination of Robert C. Brack, which is currently going to be accepted by the Senate.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Reserving the right to object, and I shall not, as the manager of the legislation on the floor, I wonder if the Senator would mind, then, even though the normal order would be for the managers to go first—I have no objection to my more senior colleague going first—that I be recognized immediately after the Senator from New Mexico.

Mr. DOMENICI. I didn't know you wanted to speak. I saw the calendar said that he was going to be accepted.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, in a couple moments the Senate will approve Robert C. Brack for district court judge of New Mexico. It is not always easy to find somebody, when you recommend them and they have finished this process and received, as in this case, full approval of the Democratic Senator—the committee approved them rather quickly—it is not always easy to find that kind of person. And then secondly, it is not always easy to know that you have really got the right individual, that they are going to do justice to that terrific responsibility which is theirs for such a long period of time under our Constitution. But in this man's case, I am certain of both. I am certain he is as good as there is. Far be it for me to say he



is the very best in New Mexico. Who knows that? But he is very good at the law.

Secondly, after being good at law, he had a shot at being a judge, and he was a very good judge at the district court level where you have general jurisdiction. When you add all that together, you just feel good about it. And you can end up telling the Senate, thank you this evening in advance and the President, thank you for sending this man to New Mexico to become a district judge in our State.

I yield the floor. If I offended or sought precedence over the distinguished Senator, I did not intend to. I apologize.

Mr. LEAHY. Mr. President, there is no offense. I know no offense was meant and none was taken.

As the distinguished senior Senator from New Mexico knows, he and I consulted at some length on this nomination, and I was happy to move forward. In fact, while the Senator is still on the floor, why don't we go ahead and pass the nomination. Then I will address the Senate.

The PRESIDING OFFICER. Without objection, Executive Calendar No. 292 is approved.

The nomination was confirmed.

Mr. LEAHY. Mr. President, with that confirmation of the New Mexican judge, the Senate will now have confirmed 135 judicial nominees of President Bush. These include 35 confirmed so far this year. I mention that number of 35 because I looked back to the third year of the last Presidential term—President Clinton's—when the Republicans controlled the Senate. They only allowed 34 judges to be confirmed in all of 1999. In fact, we have now confirmed more than twice the total number of judges confirmed in the 1996 session, when a Republican Senate majority refused to consider any circuit court nominees and confirmed only 17 district court judges in that entire session.

I mention that, Mr. President, because some believe this has become politicized. Well, maybe it was for 6 years, but it is not politicized now. We have actually reduced judicial vacancies to the lowest number in 13 years. Currently, there are more Federal judges on the bench than at any time in our history. We have confirmed 35 this year, and in the 1996 session with President Clinton, the Republican Senate majority refused to consider any circuit court nominees and only confirmed 17 district court judges during the whole session—half of what we have confirmed already.

At a similar time in President Clinton's term—the third year of the term—they allowed 34 judges to be confirmed the whole year. We have done 35 so far. By every single standard, during the time when the Democrats were in the majority and now, we have confirmed far more judges at a far faster rate for President Bush than the Republican majority allowed during the time of President Clinton.

I note that in the cases of both of today's nominees, the home State Senators include both a Republican and a Democrat Senator who supported the

nomination; both worked for the nomination. Working with these home State Senators makes it far easier and makes the confirmation process proceed more smoothly.

I congratulate the nominees confirmed today and the four Senators who came together in a bipartisan effort to get them through.

I yield the floor.

The PRESIDING OFFICER. Without objection, the motion to reconsider is laid upon the table and the President will be notified of the Senate's action.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

The Senator from Delaware is recognized.

#### THE CLEAN AIR PLANNING ACT

Mr. CARPER. Mr. President, earlier today, Senator LAMAR ALEXANDER announced his decision on this Senate floor to join Senators GREGG, CHAFEE, and me in cosponsoring the Clean Air Planning Act.

I ask unanimous consent that Senator ALEXANDER be added as a cosponsor of S. 843.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CARPER. Mr. President, we are delighted at this decision. We welcome him as a cosponsor. The Clean Air Planning Act is a sensible solution to a vexing and challenging problem. We welcome the support of Senator ALEXANDER on this bill and the opportunity to work with him and other colleagues in this body to pass a strong bipartisan piece of clean air legislation later this year. Together, we can pass legislation that will control harmful emissions, provide cleaner air, and let more people live longer and healthier lives. We can do so in a way that does not impose hardship on those who produce electricity or on the consumers or an industry that relies on affordable electricity.

There are several advantages for the Nation that the Clean Air Planning Act will provide, and I want to mention several of those at this time.

First of all, let me begin with public health and environmental benefits. The Clean Air Planning Act will achieve substantially greater emissions reductions than the administration's Clear Skies Act. The Clean Air Planning Act will generate an additional 23 million tons of SO<sub>2</sub> reductions, 3 million tons of nitrogen oxide reductions, 240,000 pounds of mercury reductions, and 764 million tons of carbon dioxide reductions relative to the Clear Skies Act in the first 20 years of the program.

As a result, the human health benefits are likely to be substantially greater under the Clean Air Planning Act than the Clear Skies legislation. An EPA analysis has concluded that in 2020, the Clean Air Planning Act would avoid almost 6,000 premature deaths from fine particulate matter when compared with Clear Skies on an annual basis—not a cumulative basis.

Let me return to CO<sub>2</sub> and business certainty. From the perspective of the

electric generating sector, business certainty is a major driver for the enactment of multipollutant legislation. Without CO<sub>2</sub> included, electric-generating companies will continue to make their investment decisions in the face of major business uncertainty. This raises the specter of stranded investments.

By lifting the uncertainty surrounding future action on CO<sub>2</sub>, the Clean Air Planning Act creates a more favorable climate for the expansion of U.S. coal markets and stimulates the development of clean coal technologies.

Let me talk for a moment about diverse generation mix. The Clean Air Planning Act and Clear Skies will both preserve a diverse fuel mix. Both bills are projected to have minimal impact on coal use. In 2010, coal use is expected to be about 2 percent lower under the Clean Air Planning Act than under Clear Skies—50 percent versus 48 percent. Coal is projected to constitute 45 percent of the electric generating mix in 2020 under either bill, Clear Skies or the Clean Air Planning Act.

An important question is, What will it cost to buy the relative advantages of the Clean Air Planning Act?

In both 2010 and 2020, total annual electric system costs under the Clean Air Planning Act are projected to be only 2.5 percent higher than under Clear Skies. This includes the cost of regulating CO<sub>2</sub> under the Clean Air Planning Act. On a net present value basis, the total cost differences between Clear Skies and the Clean Air Planning Act over a 20-year period, from 2005 to 2025, is in the range of 2 to 3 percent.

The EPA itself has conceded that retail electricity prices would increase by only two-tenths of a cent per kilowatt hour more under the Clean Air Planning Act than under Clear Skies, which amounts to about \$1.20 per month for the average residence.

According to the EPA, the CO<sub>2</sub> reduction plan could be carried out at "negligible" cost—that is their word—to the industry. Specifically, we can achieve the CO<sub>2</sub> goal in our bill—returning electricity industry emissions to 2001 levels by 2013—for approximately \$300 million in additional costs on top of the \$103 billion the industry will already be spending to produce electricity. That is just 0.3 percent—not 3 percent, not 30 percent, but 0.3 percent.

Let me conclude. Once again, I thank Senator ALEXANDER for having the courage to join us in this effort. I know it is not a decision that he made lightly. As a former Governor, he shares my commitment to getting things done in the Senate and in our Nation's Capital, with a commitment to focusing on policies that are the right thing for this Nation to do. Speaking for Senators GREGG, CHAFEE, and myself, we welcome the support of the junior Senator from Tennessee.

Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### CLEAN AIR PLANNING ACT

Mr. ALEXANDER. Mr. President, I want my Senate colleagues to know I have decided to join Senators CARPER, CHAFEE, and GREGG as cosponsors of the Clean Air Planning Act. I have studied major clean air proposals before the Senate and have concluded that this legislation is the best balanced proposal because it would reduce pollution emitted by powerplants while permitting the maximum possible economic growth and energy efficiency. I hope other colleagues will come to the same conclusion as the debate about how to clean America's air becomes front and center.

Cleaner air should be the urgent business before the Senate. The condition of the air in my State of Tennessee is completely unacceptable to me and ought to be completely unacceptable to every Tennessee citizen.

My home is 2 miles from the boundary of the Great Smokey Mountains National Park, which has also become the Nation's most polluted national park. Only Los Angeles and Houston have higher ozone levels than the Great Smokies. Only a few miles away from the Great Smokies is Knoxville, which is on the American Lung Association's list of top 10 cities with the dirtiest air. Memphis and Nashville—our two largest cities—are on the top 20 list. Chattanooga barely escapes the top 25 list.

This polluted air is damaging to health, especially that of the elderly, small children, and the disabled. It ruins the scenic beauty of our State, which is what most of us who grew up in Tennessee are proudest of. And it is damaging to our economic growth.

Clean air is the No. 1 priority of the Pigeon Forge Chamber of Commerce. Business leaders there at the foot of the Smokies know that visitors are not going to drive 300 miles and spend their tourism dollars to see smoggy mountains.

The mayors of our major cities in Tennessee also understand that cleaner air means better jobs. They know that if our metropolitan areas are not able to meet Federal standards for clean air, new restrictions will make it harder for auto parts suppliers and other industries to expand and bring good new jobs into our State. The mayors also know our cities cannot comply with the Federal standards without some help. Tennessee's clean air problem requires a national solution.

Much of our air pollution is our State's own doing—specifically, that which comes from emissions from cars and trucks and from the coal powerplants of the Tennessee Valley Authority. But as much as a third of our air pollution comes from outside Tennessee. Winds blow pollution south from the industrial Midwest and north from the South toward the highest mountain range in the eastern United States, the Great Smokies. And when the wind gets to the mountains, the pollution just hangs there, which is an additional reason the Great Smokies and the Knoxville metropolitan area have such a problem.

There are three major clean air proposals before the Senate. I have studied each to determine which would be the best for Tennessee and for our Nation.

The most important of these is President Bush's Clear Skies legislation. The President deserves great credit for putting clean air at the top of the agenda, as only a President can do, because his proposal relies upon market forces instead of excessive regulation. It limits costly litigation and creates certainty.

In addition, the President's proposal would take significant steps forward in reducing sulfur, nitrogen, and mercury pollutants.

Last year, during my campaign for the Senate, I made clean air a priority and often said the President's proposal is an excellent framework upon which to build meaningful clean air legislation but that it does not go far enough, fast enough to solve Tennessee's problems. The Clear Skies legislation is a good start, but it does not go far enough, fast enough in my back yard.

I believe the Clean Air Planning Act, which I am cosponsoring, is the best proposal for Tennessee and for our Nation. Here are the reasons:

First, the Clean Air Planning Act adopts the market-based framework of the President's proposal so that it also reduces regulation, litigation, and creates certainty.

Second, it would take our country farther faster in reducing three major pollutants: sulfur, nitrogen, and mercury.

Third, it extends its market-based framework of regulation to carbon dioxide with a modest requirement that by 2013 the carbon emitted by powerplants would be at 2001 levels, causing a 3- to 5-percent reduction in the overall United States projected level in 2013.

Fourth, the Clean Air Planning Act, of which I am a cosponsor, does not weaken existing laws in important ways that the Clear Skies proposal would. Here are the two ways the Clear Skies proposal does that:

First, Clear Skies would prevent Tennessee, for 10 years, from going in to court to force another State to meet the Federal clean air standards. Since pollutants blowing in from other States is one of our greatest problems, this is a legal right we do not want to give up.

Second, the Clear Skies proposals would remove the right of the National Park Service to comment on the effect of powerplant emissions more than 30 miles away from a national park. Again, since much of the pollution in the Smokies is blown in from more than 30 miles away, this is a review that ought to be considered.

While the President's proposal, in my judgment, does not go far enough, the other major proposal before this Senate goes too far too fast. It is a proposal by Senator JEFFORDS, the Clean Power Act, which requires carbon emissions of the utilities sector to be at 1990 levels by the time we reach the year 2009.

I believe this proposal would cost so much to implement that it would drive up the cost of electricity and drive offshore thousands of good jobs. It would significantly damage our economy and our future.

There is also the Climate Stewardship Act sponsored by Senators MCCAIN and LIEBERMAN which would regulate carbon emissions produced by the entire economy and does so on a very rapid timetable.

I would not support these two proposals because I am not convinced they are based upon good science. It would be foolish to take huge, expensive steps to solve problems which we do not know exist. But it is also unwise to completely ignore what we do know.

My reading of the Report of the National Academy of Sciences on Global Warming and my discussion with scientists, especially those at Oak Ridge National Laboratory, have persuaded me that some additional steps must be taken to limit carbon dioxide emissions.

The Senate is working on clean air legislation that will likely govern our production of energy and the accompanying pollution for the next 10 to 15 years. It would be unwise to do nothing, just as it would be unwise to do too much.

The President himself has recognized the seriousness of problems with carbon emissions and has initiated a voluntary program of emission reduction which is having some success. But for the next 10 to 15 years, I believe we should take the next step and institute modest, market-based caps.

It is important to recognize that our Clean Air Planning Act applies only to carbon produced by powerplants, not that produced by the entire economy. In fact, it would permit powerplants to purchase credits from other sectors of the economy which can prove to be a substantial benefit and income for agriculture.

There is still much to learn about the effect of human activity on global warming, specifically that caused by the production of carbon dioxide. I will continue to monitor the science as it is presented and make my judgment at the time based upon what I believe to be good science.

Senator CARPER has asked the Environmental Protection Agency to review our proposed legislation to determine its effect on the health of Americans, and its cost. According to the EPA analysis prepared in November of 2002—last year—the Clear Skies Act would prevent 11,900 premature deaths, 7,400 chronic bronchitis cases, and 10,400 hospital visits. Our Clean Air Planning Act would prevent 17,800 premature deaths from air pollution, 5,900 more people annually than under Clear Skies, and save \$140 billion in health care costs, \$50 billion more than Clear Skies.

The EPA internal analysis from November of 2002 also estimates that Clear Skies would cost electric utilities \$84.1 billion in the year 2010, while our legislation would cost \$86.2 billion in the year 2010. In 2020, Clear Skies would cost \$100.9 billion. Our legislation would cost \$103.4 billion. In short, according to that EPA internal analysis, our legislation does a better job of improving health and reducing health care costs and would cost only slightly more.

Last week, before the Senate Energy Committee, we discussed again the emergency that is being caused by a shortage of natural gas and the consequence of higher prices. Chemical companies in America are reducing salaries and pushing jobs overseas. Americans living in homes heated by natural gas should expect a 30-percent increase in their bills this winter in our State.

During the last week in July, the Senate will have the opportunity to consider both the natural gas crisis and the urgent need for cleaner air. We will be debating the Energy bill which has been reported by our committee. The bill's purpose is to encourage a diversity of cleaner, newer technologies for producing energy so that we may have a steady supply of low-cost energy and, at the same time, a cleaner environment.

Mr. President, as I said, during the last week in July the Senate will have an opportunity to consider both the natural gas crisis and the need for cleaner air. We will be debating the Energy bill which has been reported by our committee. We have worked hard on that bill, both parties. We believe we have a good bill.

The bill's purpose is to encourage a diversity of cleaner, newer technologies for producing energy so that we may have a steady supply of low cost energy and at the same time a cleaner environment. But for us to avoid facing repeated winters with higher gas prices, to avoid keeping jobs from moving overseas, and to keep our air clean and healthy, we are going to have to face some tough decisions and make different choices than we have so far been willing to make.

We need to explore for natural gas in Alaska and other offshore areas in the United States and build a new pipeline to bring it south. We need to shed our reluctance to use nuclear powerplants

that we invented and join France and Japan and the rest of the world in expanding our use of this clean form of energy.

We need to advance our understanding and use of clean coal technologies, especially coal gasification. Coal produces one-half of our electricity and will continue to produce much of it for the foreseeable future.

We should increase the use of other renewable forms of energy, including solar, ethanol, and wind power. We need to get serious about sensible conservation practices, such as using alternatives to idling truck engines when truckers are stopped for a break.

I am proud to be the principal sponsor of President Bush's hydrogen car proposal which offers great promise in the long term to reduce our dependence on foreign oil and to clean our air because its fuel uses no oil or gasoline and its only emission is water.

In summary, President Bush has made a good beginning by placing clean air on the agenda as only a President can and by offering a framework to build a strong proposal. But with respect, he hasn't gone far enough, fast enough. On the other hand, my colleagues, Senators MCCAIN, LIEBERMAN, and JEFFORDS, go too far, too fast, relying on unsettled science to put controls on our economy that are unjustified and that would cost so much that thousands of jobs would go overseas.

The Clean Air Planning Act, which I cosponsor, is, in my judgment, the best balanced solution. It has the advantages of the market-based approach suggested by the President. It goes further faster than the President's proposal in reducing pollutants from sulfur, from nitrogen, and from mercury. It places modest controls on carbon, and it does not weaken the existing clean air law.

Devising a plan for maintaining the proper balance of clean air, efficient energy, and good jobs for the next 10 to 15 years deserves the urgent attention of the Senate. I look forward to being an active participant in the debate.

#### ADMINISTRATIVE DETENTIONS AND RIGHT TO DUE PROCESS

Mr. BINGAMAN. Mr. President, we in America firmly believe that what distinguishes our country in the history of the world is our commitment to individual liberty and freedom. At the bedrock of a free society is the obligation that the Government takes on to afford individuals certain legal protections, the most basic of which is the freedom from incarceration unless the Government can prove that you have committed a crime.

Today we are witnessing the abandonment by this current administration of our historic commitment to this most basic legal protection. The core element of due process law is the requirement that if individuals are taken into custody by the Government, then within some reasonable time,

they will be advised of the crimes of which they are accused. They will be charged with those crimes and they will be prosecuted.

This administration, working through the Justice Department, headed by Attorney General Ashcroft, and the Pentagon, headed by Secretary of Defense Rumsfeld, has taken the position that as to many individuals it now has in custody, no such legal requirements attach.

It is my view that regardless of whether the person in custody is an American citizen or a foreigner, regardless of where he or she is apprehended, and regardless of the Government's preconceptions about his or her guilt, that person should be entitled to some reasonable standard of due process. Secrecy and disregard for the rule of law are not the ideals upon which a free and open society are based.

To demonstrate the basis for my concern, I would like to describe to the Senate some of the actions that have been taken in recent months by the administration. These actions fall into three different categories. There are those that affect immigrants. There are those that affect so-called material witnesses. There are those that affect so-called enemy combatants.

Let me start first with immigrants. In the case of immigrants, the inspector general in the Department of Justice has recently documented the abusive treatment of many immigrants by the FBI and the Justice Department in the period since 9/11. According to the IG's recent report, many immigrants were detained following 9/11 even though the FBI had no evidence that they were connected to terrorism. The report states that some detainees did not receive their so-called charging documents for more than 9 months after they were arrested. Even after they were charged, many detainees were held in "extremely restrictive conditions of confinement" for "weeks and months with no clearance investigation being conducted."

The Attorney General would have us accept with no dissent that extraordinary times require extraordinary measures, even if it is at the expense of individual civil liberties. In my view, the fact that these immigrants were detained on alleged immigration violations does not permit the Government to totally disregard their rights. While the 9/11 detainees were entitled to be represented by an attorney at their own expense, the inspector general found in many cases that the Government made it very difficult for detainees to obtain an attorney or to speak with that attorney on a regular basis.

I hope the newly established Department of Homeland Security, which now has jurisdiction over immigration violators, will follow the inspector general's recommendation that it ensure that "detainees have reasonable access to counsel, legal telephone calls, and visitation privileges consistent with their classification."

I am also troubled by the veil of secrecy which the administration has drawn around these detainees. The public and the Congress have a right to know the names of individuals detained in connection with the September 11 investigation. If we had had timely knowledge of the names of people discussed in the inspector general's report, we might have been able to shine some light on the process to ensure those individuals' rights were not violated.

Unfortunately, a recent circuit court of appeals decision allows the Department of Justice to continue circumventing the Freedom of Information Act. The decision is likely to be appealed, and I hope that the earlier court decision ordering the release of the names will be upheld. In the meantime, however, I hope the Attorney General will do the right thing and voluntarily release the names of the September 11 detainees. I was pleased to join Senators FEINGOLD, KENNEDY, DURBIN, and CORZINE last week in formally making that request. I hope the Attorney General will agree.

Now let me speak about material witnesses.

The second way in which the administration has been detaining people is under the authority of the material witness statute. This little-known statute permits the Government to arrest and detain a potential witness whose testimony is material in a criminal proceeding and who is likely to flee. The statute says:

Release of a material witness may be delayed for a reasonable period of time until the deposition of the witness can be taken pursuant to the Federal Rules of Criminal Procedure.

The issue here is the manner in which the statute has been applied and, in addition, the unreasonable length of time the administration has detained some individuals under this statute.

On the first point, the administration appears to be using the material witness statute to detain some individuals without any intention of ever calling them to testify before a grand jury. In fact, a Washington Post article published last November reviewed 44 material witness cases. In 20 of the 44, the material witnesses were never called to testify.

I share the concern of those who believe the administration is misapplying the statute in order to hold individuals without due process while those individuals themselves are being investigated. I would like to give the administration the benefit of the doubt, but their answers to a recent House Judiciary Committee inquiry shed little light on their intentions. In those answers, they stated:

We can only provide information about those material witnesses whose status has been made public in court proceedings.

The administration also refuses to provide the public with the specific number of people who have been detained, saying only that:

As of January 2003, the total number of material witnesses detained in the course of the September 11 investigation was fewer than 50.

Again, the public and the Congress are faced with the veil of secrecy. Tell me, Mr. President, what is the harm to national security in revealing the specific number of people who have been detained under the material witness statute or the list of charges that have been brought against such people? The public and the Congress have a right and an obligation to know.

One last troubling point is the unreasonable length of time many material witnesses have been held. Again, the Justice Department refuses to provide any specific information. I know Senator LEAHY has written to the Attorney General for more information on actions that have been taken under the material witness statute. He has requested a response by the end of this week. I very much hope that that response will be forthcoming. We need to know more about the Justice Department's use of the material witness statute, and the Congress needs to study whether changes should be made to ensure that due process is followed for individuals who are detained under this statute.

Finally, we come to the third category of individuals who have been detained; that is, individuals the administration deems to be "enemy combatants."

To date, the administration is holding three individuals within the United States as enemy combatants, and close to 700 are being held at the United States military base at Guantanamo Bay, Cuba. In all cases, these individuals are being held incommunicado, with no access to counsel and no opportunity for judicial review.

It is not unreasonable to ask who qualifies as an "enemy combatant." Since the Justice Department will not reveal the identities of many of the people it is holding, it is very difficult to tell. Most of these individuals were taken into custody in Afghanistan or Pakistan and are alleged to have been engaged in action against United States troops. At least a few of those held as enemy combatants are citizens of allied countries. According to the Financial Times, nine of those being held in Guantanamo are British citizens. At least one, Jose Padilla, is a U.S. citizen being held in South Carolina. Another, Ali Saleh Kahliah Al-Marri, is a citizen of Qatar and had been scheduled to go on trial this month in Illinois on charges of lying to the FBI. With the trial date approaching last month, the Justice Department removed him from the court system and jailed him in a Navy brig in South Carolina. Now that he is an enemy combatant and is classified as such, our Government takes the position that he need not be charged with any crime, he need not be given a hearing, his attorney is denied the right to see him, and he can be jailed indefi-

nately by the military in this condition.

President Bush has announced that 6 of the 700 or so "enemy combatants" will be tried by a military tribunal. There are serious questions about the procedures intended to be used in those trials. But even more serious questions relate to those who remain in jail without any prospect of charges being brought or trials being conducted.

The obvious question is: Where do we go from here with regard to these individuals?

The administration has labeled these people "enemy combatants" and has asserted the right to keep them incarcerated, presumably until our enemies are vanquished. But the President has made it clear that the "war on terrorism" in which we are engaged is of indefinite duration.

Is it the President's view that we can keep these individuals in prison in Guantanamo from now on without revealing who they are, without charging them with crimes, without affording them a hearing at which they can protest their innocence?

This is not a tenable position. This is not consistent with the commitment to liberty and the rule of law on which this country was founded. We demand that other governments show greater respect for human rights than this, and we should demand better from our own Government as well.

Let me say what I hope is obvious; that is, I am not advocating the release of these individuals. What I am advocating is that we afford them the right to be charged and to be tried for their alleged crimes. Most of those designated as enemy combatants have been in custody for more than 18 months without being charged.

The Bush administration takes the position that they are not prisoners of war and, therefore, do not enjoy the protections of the Geneva Convention. Our Federal courts take the position that these individuals are in Guantanamo, not within territory controlled by the United States, and therefore the courts have no authority to ensure that basic rights are protected.

In the case of *Al Odah, et al, v. United States*, the U.S. Court of Appeals for the District of Columbia sidestepped any responsibility for the enforcement of the Constitution by deciding that it had no jurisdiction over the detainees at Guantanamo. The argument used was that since the United States only occupies Guantanamo Naval Base under a lease it signed with Cuba in 1903, therefore, the court reasoned that Cuba is the sovereign nation with jurisdiction in Guantanamo and presumably the detainees should look to Castro for a remedy.

The end result of all this legal maneuvering and sidestepping is that with regard to these individuals, our own Government has successfully managed to avoid and evade any obligation to abide by procedural due process.

In the view of our Attorney General and the Secretary of Defense, there is

no obligation to bring charges, there is no obligation to afford a hearing within a reasonable period of time, there is no obligation to permit legal counsel, and, in fact, there is no obligation to reveal who is being held in this enemy combatant status.

The Attorney General further asserts that if a prosecution in the court system is not proceeding in a promising manner, he has the prerogative of unilaterally removing the defendant from the court system and jailing him for an indefinite period without the need to prove the individual's guilt.

The administration's treatment of immigrants, material witnesses, and persons labeled as "enemy combatants" makes a mockery of our professed commitment to individual rights. Our great Nation does not have to abandon its Constitution and trample on the individual rights we hold dear to deal with the threats of a modern world. Terrorism is a threat to our Nation, but the undermining of our constitutional rights is also a threat.

The idea of America is admired and emulated all over the world, in large part because we believe that the right to liberty is fundamental. In those circumstances when the State has reason to deprive a person of liberty, that individual should have the right to know what he or she is charged with and to have access to meaningful review of those charges.

I urge the President, the Attorney General, and the Secretary of Defense to advise the Congress and the American people of the steps they will take to afford basic procedural rights to all those I have discussed here. Too many generations of Americans have fought to protect these rights for us to look the other way as they are being denied and disregarded. Our children and grandchildren would expect better of us, and we should expect better of ourselves.

Mr. President, I yield the floor.

#### AMERICORPS FUNDING

Mr. LEAHY. Mr. President, I am pleased that the Senate showed its strong support for the AmeriCorps program on Friday by defeating an amendment to strip the \$100 million in emergency fiscal year 2003 funding that we in the Senate Appropriations Committee provided as part of the fiscal year 2004 Legislative branch spending bill. Without these emergency funds, Vermont will lose all but 15 to 20 of its over 100 AmeriCorps volunteers, and communities across the Nation are facing similar losses.

The dedicated young people who have answered AmeriCorps' honorable call to service contribute enormously to the strength of our communities. Whether they are helping to house the homeless, feed the hungry, or keep disadvantaged youth safe in fun and educational afterschool activities, they are often filling a sorely needed gap that the community cannot otherwise fill.

We must not let this vital part of our social safety net to unravel in Vermont and across the Nation, and that is why I am pleased to have cosponsored Senator MIKULSKI's amendment in the Appropriations Committee to add \$100 million for AmeriCorps, and why I voted on Friday to defeat the amendment to strip the money out. I urge all of my colleagues in Congress, as well as the President, to support this emergency funding.

Mr. KOHL. Mr. President, I rise today in strong support of the \$100 million included in the legislative branch appropriations bill for the AmeriCorps service program. It gives me great pride to know that more than 27,000 people of all ages and backgrounds are helping solve problems and strengthen communities through 79 national service projects across Wisconsin. This year alone, more than 700 individuals have committed to serve in Wisconsin communities as AmeriCorps members. To date, more than 3,900 Wisconsin residents have qualified for education awards totaling more than \$17,000,000. It is a tragedy to think just a few days ago, all of this may have been brought to a halt. It is with the swift action of the Senate last Friday, in preserving the \$100 million appropriation to make AmeriCorps whole, that we are able to ensure that AmeriCorps continues to provide every opportunity for Americans of all ages and backgrounds to engage in service.

AmeriCorps has proven an excellent outlet through which people may get involved in their community. Throughout the State of Wisconsin, AmeriCorps volunteers work closely with local nonprofit agencies and K through 12 schools. These individuals perform substantial amounts of direct service that have benefited our State's citizens. They are tutoring and mentoring students in schools and afterschool programs, teaching children and adults how to read, building and rehabilitating low-income housing, providing street outreach to runaway and homeless youth, cultivating community gardens, and most importantly, demonstrating to others the joy that a selfless act can bring and in return, recruiting others to become volunteers.

As our Nation faces a period of uncertainty, AmeriCorps programs are in a position to help build a stronger, more engaged citizenry while tackling some of our country's most pressing problems. Last week, the Senate was able to show its commitment to volunteerism all across the country by sustaining such a vital program at such a crucial time. I am pleased that the Senate voted to maintain this funding in the bill, and I hope that the House of Representatives will agree in conference to retain it. Without such action, the critical services AmeriCorps programs have provided over the years would not be possible and the communities that have come to rely on AmeriCorps would suffer.

#### EXTENSION OF NORMAL TRADE RELATIONS TO SERBIA AND MONTENEGRO

Mr. VOINOVICH. Mr. President, I rise today to express my support for Senate Amendment No. 1149, which would grant the President the authority to extend normal trade relations to Serbia and Montenegro.

As my colleagues may be aware, Serbia and Montenegro is one of just four countries that is currently denied normal trade relations, NTR, by the United States. Others in that group include North Korea, Cuba and Laos. Although there are certainly challenges in Serbia and Montenegro that must be addressed, as we discussed during a hearing of the Foreign Relations Committee 2 weeks ago, there is no doubt among my colleagues that this country no longer belongs in this category of "bad actors."

While the President has the authority to extend normal trade relations to most countries, the case of Serbia and Montenegro is different. In 1992, Congress revoked most favored nation status for Yugoslavia in response to the policies of former Yugoslav dictator Slobodan Milosevic, who was supporting nationalist Serbian aggression in the conflicts in Croatia and Bosnia.

The legislation passed in 1992, P.L. 102-420, prohibits the extension of normal trade relations to Yugoslavia, now Serbia and Montenegro, until certain conditions have been met. The President must certify that Serbia and Montenegro has ceased armed conflict with other peoples of the former Yugoslavia, agreed to respect the borders of the former Yugoslav states, and ended all support to Bosnian Serb forces.

As written, the law intended to stop Milosevic from aiding Serbian forces responsible for brutal atrocities during the 1990s. There is no doubt that the situation in Serbia and Montenegro has changed, and that the spirit of these conditions has been met. However, some support for Bosnian Serb forces is permitted under the Dayton Peace Accords signed in 1996. Given the situation on the ground in the early 1990s, the legislation enacted in 1992 did not provide the flexibility for this situation. As such, a legislative fix is required to permit the President to extend NTR to Serbia and Montenegro.

With Milosevic behind bars at The Hague and the current government taking action to promote democratic reforms following the assassination of Serbian Prime Minister Zoran Djindjic on March 12, 2003, I believe that it is time to take action to extend normal trade relations to Serbia and Montenegro. While we should continue to call on Serbia and Montenegro to meet its international obligations to apprehend war criminals and cooperate with the International Criminal Tribunal for the Former Yugoslavia, we should take this step to promote trade, economic development, and improved relations between the United States and Serbia and Montenegro.

Many of my colleagues agree. A provision to give the President the authority to extend NTR to Serbia and Montenegro is included in S. 671, the Miscellaneous Trade and Technical Corrections Act of 2003. While this is an appropriate vehicle for this measure, I am frustrated that this important piece of legislation is being held up indefinitely in the Senate. I submit for the record a letter of June 26, 2003, signed by myself and 65 of my colleagues calling for Senate passage of this bill.

As a member of the Senate who pays close attention to developments in southeast Europe, I am committed to doing all that I can to make sure that this critical piece of legislation is passed during this session of Congress, and I am hopeful to work closely with my colleagues to get this done as soon as possible.

I ask unanimous consent that the June 26, 2003 letter be printed in the RECORD.

There being no objection, the letter was ordered printed in the RECORD, as follows:

JUNE 26, 2003.

Hon. BILL FRIST,  
Majority Leader,  
U.S. Senate, Washington, DC.

DEAR MAJORITY LEADER: We are writing to express our support for quick Senate action on the Miscellaneous Trade and Technical Corrections Act of 2003 (S. 671). The House of Representatives passed similar legislation in the 107th Congress, but the Senate was unable to complete action on it before the Congress adjourned. On March 5, 2003, the House of Representatives again overwhelmingly approved this important legislation. The United States Senate has an opportunity to pass a non-controversial bill that will provide crucial savings and an economic boost to U.S. manufacturers, consumers, and workers. However, this important legislation is stalled awaiting action in the Senate.

For more than 20 years Congress has regularly utilized the Miscellaneous Tariff bill procedure to move non-controversial and largely technical trade legislation. S. 671 accomplishes three vital measures: (1) it enables eligible U.S. companies to import products duty free if the product is not manufactured domestically; (2) it helps create jobs for American workers by allowing companies to be more competitive and function more cost efficiently; (3) it significantly reduces costs for U.S. consumers. Should the Miscellaneous Trade and Technical Corrections Act of 2003 fail to pass the Senate a second time, any future opportunity for businesses to benefit from this valuable procedure may be jeopardized.

Failure to enact the duty suspensions in S. 671 has resulted in extraneous costs to U.S. manufacturers—through taxes paid on imports that cannot be purchased domestically—of roughly \$32 million dollars in just the first five months of this year. Manufacturing in the United States had undergone 33 months of declining employment, and this bill will create immediate benefits to American businesses and will strengthen our economy. We strongly urge you to take the necessary steps to move this legislation without further amendments under normal Senate procedure.

Thank you for your time and consideration of this matter. Please do not hesitate to con-

tact us should you require additional information regarding this request.

Sincerely,

Senators Alexander, Allen, Bayh, Biden, Bingaman, Bond, Breaux, Brownback, Bunning, Campbell, Cantwell, Carper, Chafee, Chambliss, Clinton, Cochran, Coleman, Collins, Conrad, Cornyn, Corzine and Craig.

Senators Dayton, DeWine, Dodd, Domenici, Durbin, Edwards, Ensign, Enzi, Feinstein, Graham of South Carolina, Hagel, Harkin, Hatch, Hollings, Hutchinson, Inhofe, Inouye, Jeffords, Kennedy, Kerry, Kyl, and Landrieu.

Senators Lautenberg, Leahy, Lieberman, Lincoln, Lott, Lugar, McCain, Miller, Murkowski, Murray, Nelson of Nebraska, Pryor, Roberts, Santorum, Schumer, Smith, Snowe, Talent, Thomas, Voinovich, Warner, and Wyden.

Mr. LUGAR. I support Senator VOINOVICH's efforts to promote normal trade relations with Serbia and Montenegro. Serbia and Montenegro is one of only a handful of countries that do not have normal trade relations with the United States, and the lack of normal trade relations subjects Serbia and Montenegro to high tariff rates, making it difficult for them to grow their economy.

While I do not believe that the State Department authorization bill is the appropriate vehicle for this important legislation, I share the concern of Senator VOINOVICH and so many other members that the miscellaneous tariff reduction legislation, which includes the provision granting normal trade relations to Serbia and Montenegro, move forward expeditiously.

This legislation has been held up for six months for reasons unrelated to any of the provisions in the legislation. In addition to the provision for Serbia and Montenegro, the legislation contains a number of tariff eliminations that help U.S. companies and workers, as well as three provisions that are important for economic development in Africa.

Recently I joined 65 of my colleagues in signing a letter to Senate Majority Leader FRIST urging him to bring the legislation up under normal Senate procedures. It is my hope that this legislation will pass the Senate soon.

I thank my colleague for raising this important issue, and I pledge to work with him on its passage.

Mr. GRASSLEY. I rise in strong support of granting normal trade relations status to Serbia and Montenegro, which was revoked from Yugoslavia under U.S. sanctions in 1992. Senator VOINOVICH submitted an amendment to the Department of State Authorization bill to grant normal trade relations status to Serbia and Montenegro. However, because this matter is within the jurisdiction of the Finance Committee, which I chair, I felt it necessary to object to including the provision on that piece of legislation.

Still, I understand Senator's VOINOVICH's frustration. The Finance Committee reported out legislation which would renew normal trade rela-

tions status for Serbia and Montenegro on March 20, 2003, in the Miscellaneous Trade and Technical Corrections Act of 2003, S. 671. This bill generally passes each year by unanimous consent in the Senate.

Unfortunately, the Miscellaneous Tariff Bill has been held up for months by the insistence of some Senators on including an unrelated, controversial provision to the bill. This provision cannot be included in the bill because other Senators will object. By holding up this important piece of legislation, U.S. manufacturers and workers whose businesses rely on duty suspensions are being harmed. They are losing money, and facing the possibility of laying off workers every day that we fail to act.

This is important legislation, and I know that I am not the only one who thinks so. Sixty-six of my colleagues sent a letter to the Majority Leader, urging him to bring up S. 671 for a vote. I support their efforts, and hope this vitally important legislation will move as soon as possible. I would like to thank Senator VOINOVICH for raising the issue, and ask that all my colleagues recognize not only the importance, but the urgency of this legislation.

I will submit for the record a letter in support for NTR for Serbia and Montenegro, from the America's Development Foundation, ADF, a nonprofit organization assisting the international development of democracy. The ADF is working in Serbia to promote economic and social development through a program called Community Revitalization through Democratic Action, or CRDA.

I will continue to try and pass normal trade relations for Serbia and Montenegro and appreciate my colleague's strong support and advocacy on the issue.

I ask unanimous consent that the letter to which I referred be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICA'S DEVELOPMENT FOUNDATION,  
Alexandria, VA, July 3, 2003.

Senator CHARLES E. GRASSLEY,  
Chairman, Committee on Finance, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN GRASSLEY: Thank you for your leadership in passing S. 671 out of the Senate Finance Committee. As you are well aware this measure contains provisions that will grant historic Normal Trade Relations (NTR) status to Serbia & Montenegro.

America's Development Foundation (ADF) is a U.S. nonprofit private voluntary organization dedicated to the international development of democracy. We are very interested in the economic and social development of Serbia & Montenegro. Among our many activities around the world, we are now engaged in revitalizing 70 communities located in 12 municipalities comprising more than a million people in the Vojvodina region of Serbia. Our broad portfolio of work is supported by the United States Agency for International Development (USAID) and includes providing assistance for income generating activities for farmers and small and medium enterprises.

ADF is strongly supportive of the Bush Administration and your Congressional leadership in highlighting the clear linkages between development and trade. The economic growth supported by free trade and open markets creates new jobs and increased income for many people. From our direct/experience working in Serbia, ADF sees a wonderful potential in further advancing such linkages. NTR for Serbia & Montenegro will promote its economic and social development and enhance the prospects for strengthening democracy. Perhaps most importantly, NTR for Serbia & Montenegro is in our nation's direct national interests. Open markets and increased investment will result not only in benefiting the people of Serbia & Montenegro but also U.S. investment, trade and other important strategic interests.

Thank you for championing S. 671. ADF looks forward to quick passage of the bill by the U.S. Senate.

Sincerely,

MICHAEL MILLER,  
*President.*

#### HEAD START PROGRAM

Mr. ROCKEFELLER. Mr. President, today I rise to express my opposition to any proposed changes to Head Start that would dismantle the program. I understand the Bush administration is attempting to turn the Head Start program into a State block grant. A block grant is an amount of money that the Federal Government gives to the States for a specific purpose. Head Start is a well-respected program with a record of success. It is a comprehensive program that helps disadvantaged children and their families with early child development, literacy and health screenings. Why would we want to block grant a successful program? Too often block grants become an excuse to cut funding in the future. I do not believe that Head Start would be improved by changing successful local programs by imposing a new layer of administration at the State level. I am distressed to know that so many children of low-income families will be denied the opportunity to enhance their early childhood development.

The Head Start program was designed to help communities meet the needs of underprivileged preschool children from ages three to five and their families. Head Start provides diverse services in four areas—education, health, parent involvement, and social services. Head Start's educational program is designed to meet the needs of each child, the community served, and its ethnic and cultural characteristics. Every child is involved in a comprehensive health program, which includes immunizations; medical, dental, and mental health; and nutritional services. An essential part of Head Start is the involvement of parents in parent education, program planning, and operating activities. Finally, specific social services are geared to each family.

The West Virginia Head Start Association represents 24 Head Start programs statewide. Each Head Start program is unique in providing services to their families to meet the specific

needs in the community. In 2000–01, West Virginia Head Start programs received funding to enroll 6,700 children. Over the years, I have enjoyed visiting local Head Start programs to visit with children and meet with parents, teachers and staff about the importance of early education.

From the early stages of the Head Start program, Head Start has expanded to include services for pregnant women and children under the age of 3. The goal of Early Head Start is to encourage the development of infants and toddlers by assisting parents in recognizing their value as the caregiver and teacher of their children. Early Head Start provides services in and out of the home to families with young children and expectant families. They include parent education, nutrition services, case management, and support groups for parents. In 2000–01, West Virginia received funding to enroll 325 children in 12 counties.

Early childhood development provides a safe and structured learning environment that prepares our sons and daughters to succeed to the best of their abilities regardless of ethnic background and income level. Since 1965, the program has been providing services to increase a child's readiness for school. Rather than restructuring Head Start, we should build on its success and invest in professional development, quality and expansion to cover more children.

It is disappointing that the Bush Administration is trying to reorganize Head Start rather than investing in its strengths. I hope that the Senate will take a bipartisan approach to the reauthorization of Head Start, and build on the success of Head Start, not dismantle it. When I was Chairman of the Children's Commission years ago, our bipartisan Commission called for full funding of Head Start so that all eligible children were served. Serving all children and continuing to invest in quality should be our goals for the reauthorization of this program so that our children truly enter school ready to learn.

#### IN REMEMBRANCE OF STROM THURMOND

Mrs. HUTCHISON. Mr. President, it is a privilege today to pay tribute to the memory of the late Strom Thurmond. Often outspoken, sometimes controversial, but always passionate, Strom was an unparalleled servant of the people. He always put his Nation first, whether in combat on the beaches of Normandy or here in the halls of the Senate.

He made a career of giving back to his country. But he was also a wonderful human being.

Strom often reminded me that Colonel William Barret Travis, who was in command at the Alamo, was from his home county in South Carolina. While Strom himself missed the Alamo by a few years, he demonstrated that he too

embodies the spirit of the Alamo and the sense of duty and commitment to his country that we Texans associate with Colonel Travis.

Strom's journey into the history books began back in the 1920s when he graduated from his beloved Clemson.

He went on to become a teacher and athletic coach, county superintendent of education, town and county attorney, eleventh circuit judge, South Carolina governor, soldier, president of the Reserve Officers Association and finally, a U.S. Senator—a position he held for a remarkable 48 years. For many, that would be five lifetimes of careers. But not Strom. It was just enough to keep him busy for the century he was on this Earth.

Strom lived every day of his life to the fullest.

I'm still amazed that he volunteered to return to active duty military service, though he was way past the age of being drafted. At the age of 41 he flew onto the beaches of Normandy in a glider—staring death in the face, and smiling.

He served in the Pacific and European theaters, earning 18 decorations, medals and awards including the Legion of Merit, the Purple Heart, and the Bronze Star for Valor. He rose to the rank of Major General in the U.S. Army Reserves.

In the Senate Strom focused particular attention on taking care of our men and women in the military.

I served with Strom while he chaired the Armed Services committee and saw the reflection of his time in the service in everything he did. He worked for one purpose—to ensure our country's national defense remained strong. From military health care to quality of life for service members and their families, he knew that to recruit and retain our Nation's finest, we had to treat them well.

The Capitol has not been the same since Strom left last year. The wit and wisdom he collected over a century of living made him one of the most entertaining and enlightening figures in modern politics. There will always be an empty place in the heart of the Senate created by his absence.

The eulogies that came from both sides of the aisle at his memorial service last week were testament to the evolution Strom undertook during his time in the Senate. A career once marked by division ended in unity and with dignity.

He will be greatly missed by his family, friends, colleagues and his country. He began his career in public service as a coach—eight decades later he was a coach and teacher to us all to the very end.

#### TAIWAN

Mr. BUNNING. Mr. President, I want to take a few moments and talk about Taiwan which has been a reliable friend and ally of the U.S. in Asia for over 50 years. After the terrorist attacks of



September 11, Taiwan quickly announced its support for the allied war against terrorism. Taiwan has since supported the ally efforts to rid Iraq of Saddam Hussein and has offered humanitarian and developmental assistance in rebuilding Iraq for a free Iraqi people. For that, we certainly owe Taiwan a great deal of thanks.

Taiwan has shown itself to be a democratic and freedom embracing republic even while it has undergone threats posed by the People's Republic of China, PRC. As the world focuses on continuing tensions in the Middle East and Africa, the nuclear situation in North Korea, and other threats, we must not ignore the military threat posed by the PRC to our friends in Taiwan. The United States must continue to stand with Taiwan. It is an island of freedom that must be supported.

Aside from simply supporting Taiwan's democratic principles of open elections, human rights, and freedom of assembly and religious beliefs, we must also work to help them with their economy and support of markets and trade. I hope at some point the United States takes a serious and significant step in further strengthening our economic and political ties through a free trade agreement.

Taiwan is the United States' eighth largest trading partner and its largest investment partner. A study produced by the U.S. International Trade Commission showed a net gain of \$3.4 billion for the U.S. economy from a free trade agreement with Taiwan. And this benefits both American workers and businesses as well as those in Taiwan. It seems to be a winning situation for both Taiwan and the United States. With Taiwan's recent accession to the World Trade Organization, now is the right time to seriously consider beginning free trade negotiations with Taiwan.

While some say a free trade agreement may muddle our and Taiwan's relationship with the PRC, I am hopeful such an agreement will benefit all. An agreement could bring about a moderation and softening in the PRC's stance toward Taiwan; treating Taiwan as a partner to help it modernize and foster in itself democratic reforms.

Also, we need to make sure the United States stands behind Taiwan and helps put an end to the PRC's military might and strategic deployments which at times paint a real disturbing and threatening picture for Taiwan. The PRC has accelerated its military buildup and now has over 400 M-class missiles along its southeastern coast. And too many times the PRC has routinely conducted live-fire practicing around the Taiwan Strait.

When the PRC conducts these exercises, it further destabilizes the region. It undermines the right of the people of Taiwan to live without intimidation and threats from the PRC. The PRC even sought to keep Taiwan from seeking assistance of the World Health Organization during the SARS outbreak,

which in fact originated on mainland China and still somewhat remains a problem in Asia.

We cannot stand by when the PRC provokes Taiwan. Even as we deal with pressing issues around the world, we must not lose sight of our vital interests in Taiwan. I strongly supported President Bush's approval in April of 2002 of a sale of Kidd-class destroyers, anti-submarine P-3 "Orion" aircraft, and diesel submarines to Taiwan. In accord with the Taiwan Relations Act, we must continue to speak out in defense of Taiwan, and use our strongest diplomacy to urge the PRC, as a responsible member of the international community, to abandon its rhetoric and provocative actions, and maintain a dialogue with democratic Taiwan.

While we are so heavily engaged with the war on terrorism and involvement in Iraq, we must not lose sight of the democratic and freedom-loving Taiwan. I urge my Senate colleagues to encourage Taiwan to be strong and firm with its democratic principles, and I urge this body to make sure we stand up for and support Taiwan when she needs it the most. A strong Taiwan is not only good for her and her people, but it is a beacon of hope and encouragement for all those who have struggled and fought for democracy and the freeing of the human spirit. I thank the Senate for allowing me to raise these issues, and may God bless Taiwan—the Republic of China—richly.

#### HONORING OUR ARMED FORCES

Mr. BAYH. Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave young man from Batesville, IN. Sgt. Chad L. Keith, 21 years old, was killed in Baghdad on July 7, 2003 when he was ambushed while on patrol with his unit. Chad joined the Army with his entire life before him. He chose to risk everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

Chad was the eleventh Hoosier soldier to be killed while serving his country in Operation Iraqi Freedom. Today, I join Chad's family, his friends, and the entire Batesville community in mourning his death. While we struggle to bear our sorrow over his death, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is this courage and strength of character that people will remember when they think of Chad, a memory that will burn brightly during these continuing days of conflict and grief.

Chad Keith spoke to his mother over the phone only days before his death, telling her that he was hot and tired, but proud to be making a difference in the world and following in the footsteps of several of his uncles who also served in the military. He was described by teachers and classmates as a polite, respectful young man who always had a smile on his face.

Chad was born in Pennsylvania, then moved to Newark, OH, before his family settled in Batesville. Chad graduated from Batesville High School in 2000 and then joined the Army, where he was assigned to the elite 82nd Airborne. Friends and family say that serving in the military had been a lifelong dream for Chad, who was only days away from being promoted to sergeant, an honor that now has been awarded posthumously. Chad leaves behind his parents, Kimberly and Mark Hitzges, two sisters, Courtney and Nicole, and a brother, Alex.

As I search for words to do justice in honoring Chad Keith's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg:

We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here.

This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Chad Keith's actions will live on far longer than any record of these words.

It is my sad duty to enter the name of Chad L. Keith in the official record of the United States Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Chad's can find comfort in the words of the prophet Isaiah who said, "He will swallow up death in victory; and the Lord God will wipe away tears from off all faces."

May God grant strength and peace to those who mourn, and may God bless the United States of America.

#### ADDITIONAL STATEMENTS

##### TRIBUTE TO JAMES HOLLINGSHEAD

• Mr. LOTT. Mr. President, I would like to take this opportunity to recognize and honor an outstanding citizen of Mississippi, Mr. James Hollingshead of Waynesboro, who recently displayed extreme heroism and bravery while in Destin, FL.

On Sunday, June 8, 2003, Mr. Doyle Mosley and his wife Linda were enjoying their annual family vacation in Destin, FL. During the day, the waves had become increasingly high and a red flag had been put out by the lifeguards warning of potentially dangerous waves. The Mosleys' two oldest grandsons ventured into the water with their wake boards. Instantly they were caught in a dangerous and deadly rip-tide.

While one of the boys was able to remain on his board and return safely to shore, the other, Cal Tackett, was in

serious danger. James Hollingshead, a complete stranger to the Mosleys and their grandsons, was walking down the beach with his wife when he saw what was occurring. Although he was a total stranger, he immediately rushed into the water in an effort to save Cal, risking his own life. After much struggle and effort, Mr. Hollingshead and Cal eventually made it safely to shore. Although Mr. Hollingshead was unaware of it at the time, ironically enough, the Mosleys are also Mississippians—residents of Greenwood.

This fortunate and happy outcome to a potentially disastrous situation can only be fully understood and appreciated when put in perspective. I understand nine people lost their lives on this beach on that tragic day. Thanks to the bravery and unselfish act of James Hollingshead, Cal Tackett and the Mosley family were spared this outcome.

It is all too easy for us in the rush of our daily lives to turn a blind eye to the needs of others and forego lending a hand to our fellow citizens in need. On the fateful day of June 8th, James Hollingshead made a different choice, a choice that made all the difference in the lives of the Mosley and Tackett families. He set an example for all of us that should not be ignored or forgotten. That is why I felt compelled to share with you this story of bravery and courage. To quote the Mosleys, "... it is so wonderful to know that there are people like James Hollingshead, who care and act unselfishly for a fellow citizen." Mr. Hollingshead, thank you for your courage, bravery and a job well done.●

#### IN RECOGNITION OF GOODSPEED MUSICAL'S 40TH ANNIVERSARY

● Mr. DODD. Mr. President, I wish to congratulate Goodspeed Musicals of East Haddam, CT, which is celebrating its 40th anniversary on July 16, 2003.

Goodspeed has come a long way in 40 years. It was originally formed in 1959 to save the historic Goodspeed Opera House from destruction. Not only did Goodspeed Musicals succeed in that effort, it restored the 19th century landmark to its former glory, and reopened it in 1963 as a professional theatre.

In the four decades since, Goodspeed Musicals has played a vital role in perpetuating and promoting the art of musical theatre—not only in the State of Connecticut but nationally and even internationally. From its modest beginnings, Goodspeed has gone on to produce over 186 musicals, including 43 world premiere productions and 16 that went on to Broadway.

In addition to performances at the Goodspeed Opera House, Goodspeed Musicals now also stages shows in the Norma Terris Theatre in Chester. Its growth is a testament to the hard work of so many Goodspeed employees, volunteers, members, and supporters, and to the enjoyment and wonder that musical theatre can instill in so many people.

Over the years, Goodspeed has showcased classics by composers such as

Gilbert and Sullivan and Cole Porter. But it has also been a palace where emerging artists have been able to develop their work and present it to audiences for the first time. It has produced more than 63 new shows—the largest number of new musicals for any theatre in America.

Productions such as *Annie*, *Man of La Mancha*, and *Shenandoah* had their world premieres at Goodspeed. And countless actors, musicians, choreographers, directors, and other members of the theatre community have had their careers advanced and enriched by working at Goodspeed.

Goodspeed productions that have made it to Broadway have earned over a dozen Tony awards. And for its contributions to American musical theatre, Goodspeed Musicals has earned two Tony awards of its own.

In addition to producing musical theatre, Goodspeed Musicals has also devoted itself to promoting understanding the art form. At Goodspeed's Max Showalter Center for Musical Theatre Education, students—both professional and amateur—gain a greater appreciation of all aspects of musical theatre and also participate in training and development programs that help them put their knowledge into practice.

Goodspeed has become an integral part of a rich and vibrant arts culture in the State of Connecticut. Along with the Shubert and Long Wharf Theatres in New Haven, the Bushnell and the Hartford State in our State's capital, and numerous other theatres, production companies, and musical groups, Goodspeed provides an environment where musical theatre and the performing arts can, and will, continue to thrive and flourish.

On a personal note, as a resident of East Haddam and a member of Goodspeed's Board of Directors, I have enjoyed many a magical evening at the Goodspeed Opera House. And it is my fervent hope that Goodspeed Musicals will continue to inspire and entertain for many years to come.

I offer my warmest congratulations to Michael Price, the remarkably talented Executive Director of Goodspeed Musicals, and to everyone who has been a part of Goodspeed over the past 40 years. I wish them and Goodspeed Musicals nothing but continued success in the future.●

#### TRIBUTE TO RENEE HAMMOND

● Mr. SESSIONS. Mr. President, it is my privilege today to recognize Renee Hammond of Dora, AL. On May 10, 2003, Mrs. Hammond was vacationing in Florida to recuperate from eye surgery. As she was walking on the beach with friends, she noticed some commotion near the water's edge. Two teenage girls had gotten caught in a strong undertow. A man from a nearby condominium ran into the water and quickly pulled one of the girls to safety. However, a policeman, who had gone in the water first, barely made it to shore with the younger of the two girls. Mrs.

Hammond, with the help of another woman, pulled the young girl onto the beach and began to perform rescue breathing. After only a few moments, the girl was gasping for air, coughing up water, and eventually breathing some on her own. Mrs. Hammond persisted in helping the girl by gently patting her on the back as she continued coughing up water. Eventually the paramedics arrived on the scene and took over. Mrs. Hammond maintained her compassionate, helpful manner as she checked on the others involved in the incident, including the policeman that had rescued the girl. As her husband stood amazed and impressed by her natural ability to give care, Mrs. Hammond proved humble, commending the paramedics for a job well done.

Renee Hammond is a shining example of a nurse and a citizen, serving not only in her work environment, but also in a sudden time of need to help save the life of a stranger. As a nurse in Walker County, AL, she is a heroine everyday in the lives of those she helps. As a self-sacrificing, brave woman, Mrs. Hammond is a heroine to that young girl from the beach and to the rest of us. Her example serves us as citizens, encouraging us to be honorable, to do the right thing, and to put the needs of others before our own.

Renee is the wife of J.R. Hammond, a mine worker, who is also a remarkable man. He has been a tremendous advocate for the American "working man."

Mr. President and members of the Senate, please join me in recognizing Renee Hammond as a heroine among us.●

#### 90TH BIRTHDAY OF VIRGINIA DAVIS GILL, PH.D.

● Ms. COLLINS. Mr. President, I rise today to express my congratulations and best wishes to Virginia Davis Gill, Ph.D., on the occasion of her 90th birthday.

Born on July 17, 1913, Dr. Gill has dedicated her life to public service. Her career as a social worker, a school teacher, and a health administrator spanned over seven decades, reflecting Dr. Gill's commitment to serving her community. Indeed, Dr. Gill did not retire until she was 75 years of age.

Throughout her career, Dr. Gill's leadership included active involvement in the American Red Cross and serving as a national board member of United Cerebral Palsy. Following her retirement, Dr. Gill was selected to attend the 1995 White House Conference on Aging.

Dr. Gill lives in my home State of Maine, but she is loved here in Washington, DC, as well. Our own Attending Physician of the Capitol, the distinguished Dr. John Eisold, is presenting an American flag to his longtime friend to honor her birthday.

Together with Dr. Gill's brother, Mr. Wadsworth Davis, and her son, Mr.

Walter Gill, I join in saluting the life of this remarkable woman and in wishing her the happiest of birthdays.●

#### LOCAL LAW ENFORCEMENT ACT OF 2003

● Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in Houston, TX. On September 21, 2001, a 30-year-old political refugee from Iraq was returning home at approximately midnight when he was threatened and injured by a gunman. As he opened his car door, the victim was approached by a young man who greeted him in Arabic. Suddenly, the attacker drew out a handgun and pointed it to the victim's head. When the victim offered money, the gunman said, "I don't want your money. Your people killed my people. You are from the Middle East." The victim grabbed for the gun and was shot in the left hip in the struggle. The gunman fled on foot.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.●

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

#### VOTE EXPLANATION

● Mr. HARKIN. Mr. President, I was necessarily absent during the confirmation vote on Samuel Der-Yeghiayan to become a Federal district judge for Illinois. Had I been in attendance, I would have voted "yea."●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Appropriations:

Special Report entitled "Further Revised Allocation to Subcommittees of Budget Totals for Fiscal Year 2004" (Rept. No. 108-101).

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. GREGG (for himself, Mr. NELSON of Nebraska, Mr. SANTORUM, Mr. BROWNBACK, Mr. SUNUNU, Mr. INHOFE, Mr. LUGAR, and Mr. FITZGERALD):

S. 1397. A bill to prohibit certain abortion-related discrimination in governmental activities; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DEWINE (for himself, Mr. LEVIN, Mr. VOINOVICH, Ms. STABENOW, Mr. COLEMAN, Mr. DURBIN, Mrs. CLINTON, and Mr. SCHUMER):

S. 1398. A bill to provide for the environmental restoration of the Great Lakes; to the Committee on Environment and Public Works.

By Mr. HARKIN (for himself and Mr. GRASSLEY):

S. 1399. A bill to redesignate the facility of the United States Postal Service located at 101 South Vine Street in Glenwood, Iowa, as the "William J. Scherle Post Office Building"; to the Committee on Governmental Affairs.

By Ms. SNOWE (for herself, Mr. KERRY, Mr. MCCAIN, Mr. HOLLINGS, Mr. INOUE, and Mr. BREAU):

S. 1400. A bill to develop a system that provides for ocean and coastal observations, to implement a research and development program to enhance security at United States ports, to implement a data and information system required by all components of an integrated ocean observing system and related research, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MCCAIN (for himself and Ms. SNOWE):

S. 1401. A bill to reauthorize the National Oceanic and Atmospheric Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MCCAIN (for himself and Mr. HOLLINGS):

S. 1402. A bill to authorize appropriations for activities under the Federal railroad safety laws for fiscal years 2004 through 2008, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DOMENICI (for himself, Mr. BINGAMAN, Mr. CRAIG, and Mr. AKAKA) (by request):

S.J. Res. 16. A joint resolution to approve the "Compact of Free Association, as amended between the Government of the United States of America and the Government of the Federated States of Micronesia", and the "Compact of Free Association, as amended between the Government of the United States of America and the Government of the Republic of the Marshall Islands", and otherwise to amend Public Law 99-239, and to appropriate for the purposes of amended Public Law 99-239 for fiscal years ending on or before September 30, 2023, and for other purposes; to the Committee on Energy and Natural Resources.

#### ADDITIONAL COSPONSORS

S. 73

At the request of Mr. INOUE, the name of the Senator from Maine (Ms.

SNOWE) was added as a cosponsor of S. 73, a bill to amend the Public Health Service Act to provide for the establishment of a National Center for Social Work Research.

S. 189

At the request of Mr. WYDEN, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 189, a bill to authorize appropriations for nanoscience, nanoengineering, and nanotechnology research, and for other purposes.

S. 253

At the request of Mr. CAMPBELL, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from New Hampshire (Mr. GREGG) were added as cosponsors of S. 253, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns.

S. 377

At the request of Ms. LANDRIEU, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 377, a bill to require the Secretary of the Treasury to mint coins in commemoration of the contributions of Dr. Martin Luther King, Jr., to the United States.

S. 486

At the request of Mr. DOMENICI, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 486, a bill to provide for equal coverage of mental health benefits with respect to health insurance coverage unless comparable limitations are imposed on medical and surgical benefits.

S. 511

At the request of Mr. BINGAMAN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 511, a bill to provide permanent funding for the Payment In Lieu of Taxes program, and for other purposes.

S. 585

At the request of Mr. NELSON of Florida, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 585, a bill to amend title 10, United States Code, to repeal the requirement for reduction of SBP survivor annuities by dependency and indemnity compensation.

S. 592

At the request of Mr. HOLLINGS, the name of the Senator from Hawaii (Mr. INOUE) was added as a cosponsor of S. 592, a bill to establish an Office of Manufacturing in the Department of Commerce, and for other purposes.

S. 595

At the request of Mr. HATCH, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 595, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financings to redeem bonds, to

modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 610

At the request of Mr. VOINOVICH, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 610, a bill to amend the provisions of title 5, United States Code, to provide for workforce flexibilities and certain Federal personnel provisions relating to the National Aeronautics and Space Administration, and for other purposes.

S. 678

At the request of Mr. AKAKA, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 678, a bill to amend chapter 10 of title 39, United States Code, to include postmasters and postmasters organizations in the process for the development and planning of certain policies, schedules, and programs, and for other purposes.

S. 746

At the request of Mrs. FEINSTEIN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 746, a bill to prevent and respond to terrorism and crime at or through ports.

S. 780

At the request of Mr. LOTT, the names of the Senator from Hawaii (Mr. AKAKA) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 780, a bill to award a congressional gold medal to Chief Phillip Martin of the Mississippi Band of Choctaw Indians.

S. 843

At the request of Mr. CARPER, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 843, a bill to amend the Clean Air Act to establish a national uniform multiple air pollutant regulatory program for the electric generating sector.

S. 875

At the request of Mr. KERRY, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 875, a bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes.

S. 894

At the request of Mr. WARNER, the names of the Senator from Arkansas (Mr. PRYOR), the Senator from Oregon (Mr. SMITH), the Senator from Indiana (Mr. BAYH), the Senator from Utah (Mr. HATCH) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S. 894, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 230th Anniversary of the United States Marine Corps, and to support construction of the Marine Corps Heritage Center.

S. 896

At the request of Mrs. MURRAY, the name of the Senator from New Jersey

(Mr. LAUTENBERG) was added as a cosponsor of S. 896, a bill to establish a public education and awareness program relating to emergency contraception.

S. 970

At the request of Mr. HOLLINGS, the name of the Senator from Hawaii (Mr. INOUE) was added as a cosponsor of S. 970, a bill to amend the Internal Revenue Code of 1986 to preserve jobs and production activities in the United States.

S. 982

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 982, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and hold Syria accountable for its role in the Middle East, and for other purposes.

S. 982

At the request of Mrs. BOXER, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 982, supra.

S. 983

At the request of Mr. CHAFEE, the names of the Senator from South Dakota (Mr. DASCHLE), the Senator from Oregon (Mr. SMITH) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. 983, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 1035

At the request of Mr. CORZINE, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 1035, a bill to amend title 10, United States Code, to reduce the age for receipt of military retired pay for nonregular service from 60 to 55.

S. 1046

At the request of Mr. STEVENS, the names of the Senator from Florida (Mr. GRAHAM) and the Senator from Minnesota (Mr. COLEMAN) were added as cosponsors of S. 1046, a bill to amend the Communications Act of 1934 to preserve localism, to foster and promote the diversity of television programming, to foster and promote competition, and to prevent excessive concentration of ownership of the nation's television broadcast stations.

S. 1083

At the request of Mr. LUGAR, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1083, a bill to give States the flexibility to reduce bureaucracy by streamlining enrollment processes for the Medicaid and State children's health insurance programs through better linkages with programs providing nutrition and related assistance to low-income families.

S. 1084

At the request of Mr. INOUE, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 1084, a bill to establish formally the United States Military Cancer Institute Center of Excellence, to provide for the maintenance of health in the military by enhancing cancer research and treatment, to provide for a study of the epidemiological causes of cancer among various ethnic groups for prevention efforts, and for other purposes.

S. 1237

At the request of Mr. BENNETT, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 1237, a bill to amend the Rehabilitation Act of 1973 to provide for more equitable allotment of funds to States for centers for independent living.

S. 1297

At the request of Mr. HATCH, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1297, a bill to amend title 28, United States Code, with respect to the jurisdiction of Federal courts inferior to the Supreme Court over certain cases and controversies involving the Pledge of Allegiance to the Flag.

S. 1303

At the request of Mr. BROWNBAC, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 1303, a bill to amend title XVIII of the Social Security Act and otherwise revise the Medicare Program to reform the method of paying for covered drugs, drug administration services, and chemotherapy support services.

S. 1324

At the request of Mr. GRASSLEY, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1324, a bill to amend the Trade Act of 1974 to establish procedures for identifying countries that deny market access for agricultural products of the United States, and for other purposes.

S. 1333

At the request of Mr. GRASSLEY, the names of the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Idaho (Mr. CRAPO) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of S. 1333, a bill to amend the Internal Revenue Code of 1986 to provide for the treatment of certain expenses of rural letter carriers.

S. 1394

At the request of Mr. HARKIN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1394, a bill to establish a demonstration project under the Medicaid program to encourage the provision of community-based services to individuals with disabilities.

S. CON. RES. 33

At the request of Mr. CRAIG, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. Con. Res. 33, a concurrent resolution expressing the sense of the Congress regarding scleroderma.

S. CON. RES. 40

At the request of Mrs. CLINTON, the names of the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Utah (Mr. HATCH), the Senator from Vermont (Mr. LEAHY) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S. Con. Res. 40, a concurrent resolution designating August 7, 2003, as "National Purple Heart Recognition Day".

S. RES. 107

At the request of Mr. INOUE, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. Res. 107, a resolution expressing the sense of the Senate to designate the month of November 2003 as "National Military Family Month".

S. RES. 164

At the request of Mr. ENSIGN, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. Res. 164, a resolution reaffirming support of the Convention on the Prevention and Punishment of the Crime of Genocide and anticipating the commemoration of the 15th anniversary of the enactment of the Genocide Convention Implementation Act of 1987 (the Proxmire Act) on November 4, 2003.

AMENDMENT NO. 1196

At the request of Mr. DURBIN, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of amendment No. 1196 proposed to S. 925, an original bill to authorize appropriations for the Department of State and international broadcasting activities for fiscal year 2004 and for the Peace Corps for fiscal years 2004 through 2007, and for other purposes.

AMENDMENT NO. 1197

At the request of Mr. DURBIN, the names of the Senator from California (Mrs. FEINSTEIN) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of amendment No. 1197 proposed to S. 925, an original bill to authorize appropriations for the Department of State and international broadcasting activities for fiscal year 2004 and for the Peace Corps for fiscal years 2004 through 2007, and for other purposes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DEWINE (for himself, Mr. LEVIN, Mr. VOINOVICH, Ms. STABENOW, Mr. COLEMAN, Mr. DURBIN, Mrs. CLINTON, and Mr. SCHUMER):

S. 1398. A bill to provide for the environmental restoration of the Great Lakes; to the Committee on Environment and Public Works.

Mr. LEVIN. Mr. President, I am pleased to introduce the "Great Lakes Environmental Restoration Act" with Senator DEWINE and our other bill sponsors. I also want to thank Representatives EMANUEL and REYNOLDS and the rest of the House members who are introducing similar Great Lakes

restoration legislation over in the House today.

Many of my colleagues are aware of the importance of the Great Lakes to the eight States which border them. The lakes provide our drinking water, they provide our largest recreational resource, they are tremendously important to our economy, and they impact our quality of life. Over time, we have seen numerous changes in the lakes from water levels to fish populations to water quality. Some of these changes are part of a natural cycle, but many of these changes are the direct result of management policies. For example, the Great Lakes Fishery Commission and its partners have been able to reduce sea lamprey populations by 90 percent. The lake sturgeon appear to be improving as a result of the efforts by Federal and State managers, fishermen, and other water users. As of April 2002, approximately 84 percent of high-level PCB wastes had been destroyed, up from approximately 40 percent in spring 1998. And the first U.S. Area of Concern—Presque Isle Bay, PA—has been upgraded to a "recovery area." While the Great Lakes have made strides in recovering after the environmental protections were put in place in the early 70s, there has been very slow progress in the last 10-15 years because the Federal commitment has not kept up with the needs of the Great Lakes.

This legislation that we are introducing today will provide the Federal commitment of funding and resources to keep pace with the restoration needs of the Great Lakes.

The Great Lakes face problems like beach closings, contaminated sediments, and invasive species, and the Federal Government needs to "jump start" our restoration efforts in the Great Lakes. I believe that with the help of the governors, the mayors, the wide array of nongovernmental organizations, and other interested parties, this legislation would provide some of the resources needed to keep pace with needs of the lakes.

In April, the GAO completed its study on Great Lakes Restoration efforts, and they reported that while there were many on-going restoration efforts from dozens of Federal and State Great Lakes programs, there was no over-arching, coordinated plan for the Great Lakes. GAO also reported that an environmental indicators and monitoring system needed to be developed in order to measure overall restoration progress. The report emphasizes that limited Great Lakes funding has always been a problem.

The legislation we are introducing today has three components to address the problems outlined by the April 2003 GAO report. First, the legislation authorizes \$600 million in annual funding for the EPA's Great Lakes National Program Office to provide grants to the Great Lakes States, municipalities and other applicants based on the recommendations and priorities of a Great Lakes Environmental Restoration Ad-

visory Board. These grants will require a 20 percent funding commitment from the region, and every State will receive at least 6 percent of the total amount of funding available for the year. The Great Lakes Environmental Restoration Advisory Board will be led by the Great Lakes governors, but it will include views of a whole range of people interested in the Great Lakes such as mayors, Federal agencies, Native American tribes, environmentalists, industry representatives, and Canadian observers. This Advisory Board will provide priorities on restoration issues such as invasive species control and prevention, wetlands restoration, contaminated sediments cleanup, and water quality improvements. By providing grant priorities, the region will shape the future of the Great Lakes.

Second, this legislation establishes a Great Lakes Federal Coordinating Council in order to coordinate Federal activities in the Great Lakes. According to the GAO study, environmental restoration activities in the Great Lakes are uncoordinated. EPAs Great Lakes National Program Office is equipped to serve as the Council leader, and Federal participants include NOAA, the Army Corps of Engineers, the Department of State, the Department of Health and Human Services, the Department of Agriculture and the Department of Interior. The Council would meet at least three times per year to ensure that the efforts of Federal agencies concerning environmental restoration and protection of the Great Lakes are coordinated, effective, complementary, and cost-efficient. The Council would also provide a list of its funding priorities to the Office of Management and Budget.

Third, this bill gives the Great Lakes National Program Office the mandate to work with other Federal agencies and Canada to identify and measure water quality and other environmental factors on a regular basis. The initial set of data collected through this network will serve as a benchmark against which to measure future improvements. Those measurements will help us make decisions on how to steer future restoration efforts. With a clearer picture of how the Great Lakes are changing, we can change course when needed and spend public funds on the most pressing demands. This provision will address GAO's finding that there is no data collected regularly throughout the Great Lakes, and that the existing data are inadequate to determine whether water quality and other environmental conditions are improving.

The Great Lakes are a unique and valuable resource, and we cannot afford to continuously underfund their protection. Congress must act to enhance their restoration and protection. As the current caretakers and beneficiaries, we owe nothing less to the region and the American people.

Mr. DEWINE. Mr. President, I am proud to join my fellow Great Lakes Task Force chair, Senator CARL LEVIN,

in introducing today the Great Lakes Environmental Restoration Act. I would like to thank our Senate cosponsors—Senators VOINOVICH, STABENOW, COLEMAN, DURBIN, SCHUMER, and CLINTON—for supporting this legislative effort.

The Great Lakes hold one-fifth of the world's surface freshwater, hold an estimated six quadrillion gallons of water, cover more than 94,000 square miles, and drain more than twice as much land. The Great Lakes ecosystem includes such diverse elements as northern evergreen forests, deciduous forests, lake plain prairies, and coastal wetlands. Over thirty of the basin's biological communities—and over 100 species—are globally rare or found only in the Great Lakes Basin. The 637 State parks in the region accommodate more than 250 million visitors each year. And, the Great Lakes Basin is home to more than 33 million people—that is one-tenth of our entire U.S. population.

The eight Great Lakes States comprise more than one-third of the national manufacturing output, and the lakes represent a critical shipping land for these States' manufactured goods and other natural resources. Ohio's nine ports on Lake Erie annually handle 70 million tons of cargo—that is almost seven tons of cargo for every Ohio resident, with a total value of over \$1.5 billion.

My colleagues in Congress and I understand the value of the Great Lakes as a natural resource to the region, and we have been making progress in improving the overall quality of the lakes. Over the last few years, I have worked to secure \$34 million for Ohio and the Great Lakes States to expand public access to the lakes. And now, I am working to address invasive species through the National Invasive Species Council Act, which I introduced, and the National Aquatic Invasive Species Act, which I cosponsored. Senator LEVIN and I have worked together as coauthors of the Great Lakes Task Force since 2000.

We have fought to secure needed Great Lakes funding for the NOAA water level gauges, the replacement ice-breaking vessel, the *Mackinaw*, and sea lamprey control money for the Great Lakes Fishery Commission. We both met with the U.S. Trade Representative in an effort to prevent water from the Great Lakes from being diverted abroad. And, we also worked together to authorize the Great Lakes Basin Soil Erosion and Sediment Control Program in the 2002 farm bill. Last fall, we passed the Great Lakes Legacy Act, which provides up to \$50 million per year to the EPA to clean up contaminated sediments at Areas of Concern. The President provided \$15 million in his fiscal year 2004 budget to get this program started.

These steps, in conjunction with the efforts by our States, are positive, but unfortunately—based on the Federal Government's current level of fund-

ing—we are not able to keep pace with the problems facing the Great Lakes. An April 2003 GAO report found that the Federal Government has spent about \$745 million over the last 10 years on Great Lakes restoration programs. Now, consider the fact that the GAO reported that the eight Great Lakes States spent \$956 million during that same 10-year period. The Federal Government is simply not spending enough to protect and improve the Great Lakes—one-fifth of the world's freshwater.

There is ample evidence to show that this current level of commitment is simply not enough. In 2001, there were nearly 600 beach closings as a result of *E. colie* bacteria, and State and local health authorities issued approximately 1,400 fish consumption advisories in the Great Lakes. In the years since the United States and Canada signed the Water Quality Agreement and agreed to give priority attention to the 43 designated Areas of Concern, the United States has not been able to remove any of the U.S. sites from the list of Areas of Concern.

For several years, I have been calling for a plan to restore the lakes and have been urging the Governors, mayors, the environmental community and other regional interests to agree on a vision for the future of the Great Lakes—not just the immediate future, but many years down the road. I have said that we must work together as partners to create and implement a long-term strategy on how we are going to restore and protect the lakes and that it is time for us to come together and develop a plan and put it in place.

This bill would build upon the efforts by the Great Lakes States, which have convened a Working Group to establish their Great Lakes goals and priorities. Many of our regional interest groups and agencies have prepared strategic plans and priorities. And, we have brought in the President's Council on Environmental Quality so that the President will better understand the value of a long-term plan for the Great Lakes. I can't emphasize how important it is to have all of these interests working toward the same goal.

A Great Lakes restoration program must be an equal partnership between the local, State, and Federal Governments and other interested citizens and organizations. I believe that this legislation would provide the tools needed for the long-term future of the Great Lakes. First, this legislation creates a \$6 billion Great Lakes restoration grant program to augment existing Federal and State efforts to cleanup, protect, and restore the Great Lakes. In the April 2003 GAO report, the GAO reported that insufficient funding is often cited as a limitation to restoration efforts. Therefore, an additional \$600 million in annual funding would be appropriated through the EPA's Great Lakes National Program Office, and the Program Office would provide grants to the Great Lakes States, Mu-

nicipalities, and other applicants in coordination with the Great Lakes Environmental Restoration Advisory Board. This funding would provide the extra resources that existing programs do not have.

While the Great lakes are a national and international resource, I believe that the region, not the bureaucrats in Washington, needs to be setting its priorities and guiding the future efforts on the lakes. This bill would require very close coordination between the EPA and the State and regional interests before grants are released. The Great Lakes Environmental Restoration Advisory Board, led by the Great Lakes Governors, would include mayors, Federal agencies, Native American tribes, environmentalists, industry representatives, and Canadian observers. This advisory board, which would include all of the interests in the Great Lakes, would provide priorities on restoration issues, such as invasive species control and prevention, wetlands restoration, contaminated sediments cleanup, and water quality improvements. Additionally, this advisory board would provide recommendations on which grant applications to fund. Ultimately, the input from the advisory board would mean that the region would be involved in determining the long-term future of the Great Lakes.

As the April 2003 GAO study reported, environmental restoration activities in the Great Lakes are uncoordinated. So, the second goal of this legislation is the establishment of a Great Lakes Federal coordinating council to coordinate Federal activities in the Great Lakes. The EPA's Great Lakes National Program Office would serve as the council leader, and participants would include the key Federal agencies involved in Great Lakes work, such as NOAA, the Army Corps of Engineers, the Department of Agriculture, and the Department of Interior. The council would meet at least three times per year to ensure that the efforts of Federal agencies concerning environmental restoration and protection of the Great Lakes are coordinated, effective, complementary, and cost-efficient. The council also would provide a list of its funding priorities to the Office of Management and Budget.

Finally, our bill would address the GAO's second recent finding that environmental indicators and a monitoring system for the Great Lakes need to be developed to measure progress on new and existing restoration programs.

The Great Lakes are threatened by many problems, and I have worked with Senator LEVIN and my other colleagues from the Great Lakes states to try to address those problems on an issue-by-issue basis. These programs are working to correct problems. However, the rate of our progress has not been able to keep pace with the growing number of threats. For those of my colleagues who know the problems facing Great Lakes and even other large watersheds like the Chesapeake Bay, the

gulf coast, or the Everglades, you will agree that we need to refocus and improve our efforts on the Great Lakes to help reverse the trend toward additional degradation.

The Great Lakes are a unique natural resource for Ohio and the entire region, and they need to be protected for future generations. I ask my colleagues to join me in support of this bill and in our efforts to help preserve and protect the long-term viability of our Great Lakes.

By Ms. SNOWE (for herself, Mr. KERRY, Mr. MCCAIN, Mr. HOLLINGS, Mr. INOUE, and Mr. BREAUX):

S. 1400. A bill to develop a system that provides for ocean and coastal observations, to implement a research and development program to enhance security at United States ports, to implement a data and information system required by all components of an integrated ocean observing system and related research, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Mr. President, I rise today to introduce the Ocean and Coastal Observation Systems Act of 2003. This bill would help develop and formalize an integrated network of ocean observing systems around our Nation's coastlines, thereby fulfilling a critical information need that is essential in marine science, resource management, and maritime transportation and safety.

Like other coastal States, Maine has a strong and deep connection to our coastline and oceans. We are highly dependent on the fisheries resources and other essential services provided to us by the sea, and we understand that our lives and livelihoods are firmly rooted in how well we understand and adapt to ocean conditions. While we are able to predict tides and other cyclical changes with some accuracy, our best knowledge of the ocean has basically come through direct experience out on the water in often dangerous conditions—until recently.

In 2001, a new era in ocean and coastal observing began when the Gulf of Maine Ocean Observing System, or GoMOOS, deployed ten observation buoys in the Gulf of Maine. This prototype system has transformed how we gather information about the ocean and track ocean conditions over time. On the surface, these buoys take measurements of wind speed, wave height, temperature, and—for the first time—fog. Under the water's surface, these buoys measure currents, temperature, salinity, turbidity, dissolved oxygen, and other key environmental variables. By modifying the instrumentation, other data can be gathered from these platforms.

Scientists and seafarers have been gathering this kind of information for decades. What sets the GoMOOS observation buoy system apart from the traditional data gathering approach, how-

ever, is that it takes all these ocean and surface condition measurements on an hourly basis through a network of linked buoys, and these real-time measurements can be monitored and accessed by the general public through the internet. Not only do the Gulf of Maine buoys gather more data on more variables, but the unprecedented geographical distribution and greater frequency of these measurements has increased the range and timeliness of our ocean knowledge. By linking this comprehensive information with other data gathering systems and making it accessible via the internet, GoMOOS provides a tremendous public service and fills a critical information need in coastal regions.

The need for this type of access to ocean information is not limited to the Gulf of Maine. The U.S. coastline spans 95,000 miles, and all States that border our oceans and Great Lakes can and will benefit from this type of service. Ocean and coastal observing systems have been planned or developed for other coastal regions, many in conjunction with the National Oceanic and Atmospheric Administration, state coastal management agencies, universities, and other regional partners. As these systems evolve, they develop different approaches for collecting, managing, processing, and communicating data through their network. As is often the case, however, data from these regional systems are incompatible with data from other regions. When this occurs, we lose a valuable opportunity to link these systems and develop a comprehensive picture of coastal and ocean conditions around the Nation.

The Ocean and Coastal Observation Systems Act seeks to solve this problem by coordinating and institutionalizing ocean and coastal observation efforts with the support of the Federal Government. This Act would promote the ongoing development of these regional systems, link them through a network of compatible data systems, and provide a system which anyone could access to better understand and track regional and national ocean and coastal conditions. It would call on the National Ocean Research Leadership Council to design, operate, and improve a nation-wide ocean and coastal observation system, and to coordinate and administer an ocean data research and development program. This Council would plan these activities through a collaborative interagency planning office and carry them out through a joint operations center, led by the National Oceanic and Atmospheric Administration.

The American public—over half of which lives along our coastlines—will be very well served through the many uses and applications of this system. Fisheries scientists and managers can use this information to predict ocean conditions related to productivity and incorporate this information into their management system. Fishermen, sailors, Coast Guard search-and-rescue

units, the military, and others who venture out on the ocean can better predict sea conditions to know when and where to go out safely, and shippers can transport goods more efficiently. Ocean scientists and regulators can better understand, predict, and rapidly respond to the distribution and impacts of marine pollution. Educators and students can learn more about how and why oceans function as they do. Clearly, anyone who uses and depends upon the ocean stands to benefit from this integrated system.

As a coastal State Senator, I am very proud to introduce this bill. I would like to thank my co-sponsors, Senators KERRY, MCCAIN, HOLLINGS, INOUE and BREAUX, for contributing to this legislation and supporting this national initiative. I must also thank all the dedicated professionals in the ocean and coastal science, management, and research communities that have been instrumental in developing both the grassroots regional observation systems as well as this legislation. Their ongoing commitment gives me confidence that this bill, once enacted, will serve the public well by facilitating better understanding of our nation's oceans and coasts.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1400

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Ocean Observation and Coastal Systems Act".

#### SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) The 95,000-mile coastline of the United States is vital to the Nation's homeland security, transportation, trade, environmental and human health, recreation and tourism, food production, scientific research and education, historical and cultural heritage, and energy production.

(2) More than half the Nation's population lives and works in coastal communities that together make up 11 percent of its land and its most ecologically and economically important regions, supporting approximately 190 sea ports, containing most of our largest cities, and providing access to coastal waters rich in natural resources.

(3) More than 95 percent of the Nation's trade moves by sea and nearly half of all goods, including energy products, carried in maritime commerce are hazardous materials.

(4) The rich biodiversity of marine organisms provides society with essential food resources, a promising source of marine products with commercial and medical potential, and an important contribution to the national economy.

(5) The oceans drive climate and weather factors causing severe weather events and threatening the health of coastal ecosystems and communities by creating or affecting both natural and man-made coastal hazards such as hurricanes, tsunamis, erosion, oil spills, harmful algal blooms, and pollution, which can pose threats to human health.



(6) Each year, the United States Coast Guard relies on ocean information to save 4,380 people, conducts over 65,000 rescue missions, and carries out more than 11,680 environmental cleanups and responses to pollution.

(7) Safeguarding homeland security requires improved monitoring of the Nation's ports and coastline, including the ability to track vessels and to provide rapid response teams with real-time environmental conditions necessary for their work.

(8) Advances in ocean technologies and scientific understanding have made possible long-term and continuous observation from space and in situ of ocean characteristics and conditions.

(9) Many elements of an ocean and coastal observing system are in place, though in a patchwork manner that is fragmented, intermittent, incomplete, and not integrated.

(10) Important coastal uses, such as tourism, recreation, and fishing, require assurance of healthy coastal waters, and while the interagency National Coast Condition Report provides an annual assessment of the status and quality of coastal waters, substantial data gaps exist that could be reduced through measurement of coastal quality through a coordinated observing system that incorporates Federal, State, and local monitoring programs.

(11) National investment in a sustained and integrated ocean and coastal observing system and in coordinated programs of research would assist this Nation and the world in understanding the oceans and the global climate system, strengthen homeland security, improve weather and climate forecasts, strengthen management of marine resources, improve the safety and efficiency of maritime operations, and mitigate coastal hazards.

(b) **PURPOSES.**—The purposes of this Act are to provide for—

(1) development and maintenance of an integrated system that provides for sustained ocean and coastal observations from in situ, remote, and vessel platforms, and that promotes the national goals of assuring national security, advancing economic development, conserving living marine resources, protecting quality of life and the marine environment, and strengthening science education and communication through improved knowledge of the ocean;

(2) implementation of a research and development program to enhance security at United States ports and minimize security risks; and

(3) implementation of a data and information system required by all components of an integrated ocean and coastal observing system and related research.

### SEC. 3. INTEGRATED OCEAN AND COASTAL OBSERVING SYSTEM.

(a) **ESTABLISHMENT.**—The President, through the National Ocean Research Leadership Council, established by section 7902(a) of title 10, United States Code, (hereinafter referred to as the "Council"), shall establish and maintain an integrated system of marine monitoring, data communication and management, data analysis, and research designed to provide data and information for the rapid and timely detection and prediction of changes occurring in the marine environment that impact the Nation's social, economic, and ecological systems. Such an integrated ocean and coastal observing system shall provide for long-term and continuous observations of the oceans and coasts for the following purposes:

(1) Strengthening homeland security.

(2) Improving weather forecasts and public warnings of natural disasters and coastal hazards and mitigating such disasters and hazards.

(3) Understanding, assessing, and responding to human-induced and natural processes of global change.

(4) Enhancing the safety and efficiency of marine operations.

(5) Supporting efforts to protect, maintain, and restore the health of and manage coastal and marine ecosystems and living resources.

(6) Enhancing public health.

(7) Monitoring and evaluating the effectiveness of ocean and coastal environmental policies.

(8) Conducting focused research to enhance the national understanding of coastal and global ocean systems.

(9) Providing information that contributes to public awareness of the condition and importance of the oceans.

(b) **COUNCIL FUNCTIONS.**—In carrying out responsibilities under this section, the Council shall—

(1) serve as the lead entity providing oversight of Federal ocean and coastal observing requirements and activities;

(2) adopt and maintain plans for the design, operation, and improvement of such system;

(3) establish an interagency planning office to carry out the duties described in subsection (c);

(4) coordinate and administer a program of research and development under the National Oceanographic Partnership Program (10 U.S.C. 7901) to support the operation of an integrated ocean and coastal observing system and advance the understanding of the oceans;

(5) establish a joint operations center to be maintained by the Administrator of the National Oceanic and Atmospheric Administration, in consultation with other Federal agencies; and

(6) provide, as appropriate, support for and representation on United States delegations to international meetings on ocean and coastal observing programs and in consultation with the Secretary of State to coordinate relevant Federal activities with those of other nations.

(c) **INTERAGENCY PROGRAM OFFICE.**—There is established under the Council an interagency planning office. It shall—

(1) promote collaboration among agencies;

(2) promote collaboration among regional coastal observing systems established pursuant to subsection (f);

(3) prepare annual and long-term plans for consideration by the Council for the design and implementation of an integrated ocean and coastal observing system, including the regional coastal observing systems and taking into account the science and technology advances considered ready for operational status;

(4) provide information for the development of agency budgets;

(5) identify requirements for a common set of measurements to be collected and distributed;

(6) establish standards and protocols for quality control and data management and communications, in consultation with the Joint Operations Center established pursuant to subsection (d);

(7) work with regional coastal observing entities, the National Sea Grant College Program, and other bodies as needed to assess user needs, develop data products, make effective use of existing capabilities, and incorporate new technologies, as appropriate; and

(8) coordinate program planning and implementation.

(d) **JOINT OPERATIONS CENTER.**—The Administrator of the National Oceanic and Atmospheric Administration, in consultation with the Oceanographer of the Navy, the Administrator of the National Aeronautics and

Space Administration, the Director of the National Science Foundation, the Commandant of the Coast Guard, the Under Secretary for Science and Technology of the Department of Homeland Security, and any other member of the National Ocean Research Leadership Council as the Council may, by memorandum of agreement, select—

(1) shall report to the National Ocean Research Leadership Council;

(2) shall maintain a joint operations center that reports to the Council; and

(3) is authorized, without limitation—

(A) to acquire, integrate, and deploy required technologies and provide support for an ocean and coastal observing system based on annual long-term plans developed by the interagency planning office;

(B) to implement standards and protocols developed in consultation with the interagency planning office for—

(i) network operations and data access;

(ii) quality control and assessment of data and design;

(iii) data access and management, including data transfer protocols and archiving;

(iv) testing and employment of forecast models for ocean conditions; and

(v) system products;

(C) to migrate science and technology advancements from research and development to operational deployment based on the annual and long-term plans of the interagency program office;

(D) to integrate and extend existing programs into an operating coastal and ocean and coastal observing system based on the annual and long-term plans of the interagency program office;

(E) to coordinate the data communication and management system;

(F) to provide products and services as specified by national, regional, and international users;

(G) to certify that regional coastal observing systems meet the standards established in subsection (f) and to ensure a periodic process for review and recertification of the regional coastal observing systems; and

(H) to implement standards to ensure compatibility and interoperability among existing and planned system components.

(e) **SYSTEM ELEMENTS.**—

(1) **IN GENERAL.**—The integrated ocean and coastal observing system shall consist of the following closely linked components:

(A) A global ocean system to make observations in all oceans (including chemical, physical, and biological observations) for the purpose of documenting, at a minimum, long-term trends in sea level change, ocean carbon sources and sinks, and heat uptake and release by the ocean; and to monitor ocean locations for signs of abrupt or long-term changes in ocean circulation leading to changes in climate.

(B) The national network of observations and data management that establishes reference and sentinel stations, links the global ocean system to local and regional observations, and provides data and information required by multiple regions.

(C) Regional coastal observing systems that provide information through the national network and detect and predict conditions and events on a regional scale through the measurement and dissemination of a common set of ocean and coastal observations and related products in a uniform manner and according to sound scientific practice using national standards and protocols.

(2) **SUBSYSTEM LINKAGE.**—The integrated ocean and coastal observing system shall link 3 subsystems for rapid access to data and information:

(A) An observing subsystem to measure, manage, and serve a common set of chemical, physical, geological, and biological

variables required to achieve the purpose of this Act on time scales required by users of the system.

(B) An ocean data management and assimilation subsystem that provides for organization, cataloging, and dissemination of data and information to ensure full use and long term archival.

(C) A data analysis and applications subsystem to translate data into products and services in response to user needs and requirements.

(3) RESEARCH AND DEVELOPMENT.—A research and development program for the integrated ocean and coastal observing system shall be conducted under the National Oceanographic Partnership Program and shall consist of the following elements:

(A) Coastal, relocatable, and cabled sea floor observatories.

(B) Focused research projects to improve understanding of the relationship between the oceans and human activities.

(C) Applied research to develop new observing technologies and techniques, including data management and dissemination.

(D) Large scale computing resources and research to improve ocean processes modeling.

(E) Programs to improve public education and awareness of the marine environment and its goods and services.

(f) REGIONAL COASTAL OBSERVING SYSTEMS.—The Administrator of the National Oceanic and Atmospheric Administration, through the Joint Operations Center, shall work with representatives of entities in each region that provide ocean data and information to users to form regional associations. The regional associations shall be responsible for the development and operation of observing systems in the coastal regions extending to the seaward boundary of the United States Exclusive Economic Zone, including the Great Lakes. Participation in a regional association may consist of legal entities including, research institutions, institutions of higher learning, for-profit corporations, non-profit corporations, State, local, and regional agencies, and consortia of 2 or more such institutions or organizations that—

(1) have demonstrated an organizational structure capable of supporting and integrating all aspects of a coastal ocean observing system within a region or subregion;

(2) have prepared an acceptable business plan including research components and gained documented acceptance of its intended regional or sub-regional jurisdiction by users and other parties of interest within the region or sub-region to with the objectives of—

(A) delivering an integrated and sustained system that meets national goals;

(B) incorporating into the system existing and appropriate regional observations collected by Federal, State, regional, or local agencies;

(C) responding to the needs of the users, including the public, within the region;

(D) maintaining sustained, 24-hour-a-day operations and disseminating observations in a manner that is routine, predictable and, if necessary, in real-time or near real-time;

(E) providing services that include the collection and dissemination of data and data management for timely access to data and information;

(F) creating appropriate products that are delivered in a timely fashion to the public and others who use, or are affected by, the oceans;

(G) providing free and open access to the data collected with financial assistance under this Act; and

(H) adhering to national standards and protocols to ensure that data and related prod-

ucts can be fully exchanged among all of the regional coastal systems and will be accessible to any user in any part of the nation.

(3) For purposes of determining the civil liability under section 2671 of title 28, United States Code, any regional observing system and any employee thereof that is designated part of a regional association under this subsection shall be deemed to be an instrumentality of the United States with respect to any act or omission committed by any such system or any employee thereof in fulfilling the purposes of this Act.

(g) PILOT PROJECTS.—

(1) IN GENERAL.—The Administrator, in consultation with the interagency planning office, shall initiate pilot projects through the National Oceanographic Partnership Program. A pilot project is an organized, planned set of activities designed to provide an evaluation of technology, methods, or concepts within a defined schedule and having the goal of advancing the development of the sustained, integrated ocean observing system. The pilot projects will—

(A) develop protocols for coordinated implementation of the full system;

(B) design and implement regional coastal ocean observing systems;

(C) establish mechanisms for the exchange of data between and among regions and Federal agencies;

(D) specify products and services and related requirements for observations, data management, and analysis in collaboration with user groups; and

(E) develop and test new technologies and techniques to improve all three subsystems to more effectively meet the needs of users of the system.

(2) INFRASTRUCTURE CAPITAL PROJECTS.—The pilot projects shall include one or more projects to capitalize the infrastructure for the collection, management, analysis, and distribution of data and one or more projects where the basic infrastructure and institutional mechanisms already exist for ongoing coastal observations, to fund the operations necessary for the collection of the common set of observations approved by the interagency planning office.

#### SEC. 4. INTERAGENCY FINANCING.

The departments and agencies represented on the Council are authorized to participate in interagency financing and share, transfer, receive and spend funds appropriated to any member of the Council for the purposes of carrying out any administrative or programmatic project or activity under this Act or under the National Oceanographic Partnership Program (10 U.S.C. 7901), including support for a common infrastructure and system integration for an ocean and coastal observing system. Funds may be transferred among such departments and agencies through an appropriate instrument that specifies the goods, services, or space being acquired from another Council member and the costs of the same.

#### SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) OBSERVING SYSTEM AUTHORIZATION.—For development and implementation of an integrated ocean and coastal observing system under section 3, including financial assistance to regional coastal ocean observing systems and in addition to any amounts previously authorized, there are authorized to be appropriated to—

(1) the National Oceanic and Atmospheric Administration, \$83,000,000 in fiscal year 2004, \$87,250,000 in fiscal year 2005, \$91,500,000 in fiscal year 2006, \$96,000,000 in fiscal year 2007, and \$100,000,000 in fiscal year 2008;

(2) the National Science Foundation, \$25,000,000 in fiscal year 2004, \$26,250,000 in fiscal year 2005, \$27,500,000 in fiscal year 2006, \$29,000,000 in fiscal year 2007, and \$30,500,000 in fiscal year 2008;

(3) the National Aeronautics and Space Administration, \$30,000,000 in fiscal year 2004, \$31,500,000 in fiscal year 2005, \$33,000,000 in fiscal year 2006, and \$34,750,000 in each of fiscal years 2007 and 2008;

(4) the United States Coast Guard, \$8,000,000 in fiscal year 2004, \$8,400,000 in fiscal year 2005, \$9,700,000 in fiscal year 2006, \$9,500,000 in fiscal year 2007, and \$9,750,000 in fiscal year 2008;

(5) the Office of Naval Research, \$25,000,000 in fiscal year 2004, \$26,250,000 in fiscal year 2005, \$27,500,000 in fiscal year 2006, \$29,000,000 in fiscal year 2007, and \$30,500,000 in fiscal year 2008;

(6) the Office of the Oceanographer of the Navy, \$30,000,000 in fiscal year 2004, \$31,500,000 in fiscal year 2005, \$33,000,000 in fiscal year 2006, \$34,750,000 in fiscal year 2007, and \$36,500,000 in fiscal year 2008; and

(7) other Federal agencies with operational coastal or ocean monitoring systems or which provide funds to States for such systems, \$15,000,000 in each of fiscal years 2004 through 2008.

(b) REGIONAL COASTAL OBSERVING SYSTEMS.—The Administrator of the National Oceanic and Atmospheric Administration shall make at least 51 percent of the funds appropriated pursuant to subsection (a)(1) available as grants for the development and implementation of the regional coastal observing systems based on the plans adopted by the Council and may be used to leverage non-Federal funds.

(c) AVAILABILITY.—Sums authorized to be appropriated by this section shall remain available until expended.

By Mr. MCCAIN (for himself and Mr. HOLLINGS):

S. 1402. A bill to authorize appropriations for activities under the Federal railroad safety laws for fiscal year 2004 through 2008, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Today, I am joined by Senator HOLLINGS in introducing the Federal Railroad Safety Improvement Act. This legislation would reauthorize the Federal rail safety program, which expired at the end of fiscal year 1998.

The rail safety program, which is administered by the Federal Railroad Administration, FRA, encompasses a range of inspection, research, education, and oversight initiatives aimed at protecting the safety of railroad employees; ensuring track and equipment are properly maintained; enhancing grade crossing safety; safeguarding the transportation of hazardous materials by rail; and overseeing the industry's safety practices and procedures. FRA also monitors Amtrak and, in the past two years, has assumed a more active role in protecting the investment of the taxpayers in that troubled enterprise.

There have been remarkable improvements in rail safety over the past 20 years, attributable to both the safety program and the Staggers Act, the landmark legislation enacted in 1980 to partially deregulate the freight railroads. According to FRA statistics, the rail industry's train accident rate has declined 68 percent since the Staggers Act was passed and the rate of employee injuries and fatalities has fallen 74 percent. The number of grade crossing collisions declined 72 percent from

1980 through 2002, while fatalities declined 57 percent.

The Federal Railroad Safety Improvement Act would renew our commitment to a strong rail safety program. The legislation would authorize \$166 million for rail safety in fiscal year 2004, the amount requested by the Administration, rising to \$200 million in fiscal year 2008. Included in these authorizations would be additional funds to continue initiatives to test and install positive train control, PTC, systems on passenger and freight railroad rights-of-way. Some federal support of PTC technology is warranted; PTC has been on the National Transportation Safety Board's "most wanted" list since 1990, but is cost-prohibitive for the railroads to install on a widespread basis.

Our proposed legislation also would make improvements to grade crossing safety by formally establishing a national crossing inventory, reauthorizing Operation Lifesaver, and requiring the development of model state legislation with penalties for drivers who violate crossing signs, signals, and gates. The legislation also would direct FRA to develop a plan for a joint initiative with states and municipalities to close 1 percent of all public and private grade crossings each year for a 10-year period. This is an ambitious goal but one that would clearly save lives.

The legislation we propose today also would address long-standing concerns about employee fatigue in the rail industry. The bill would require that a working group be convened within FRA's Railroad Safety Advisory Committee to consider what legislative or other changes may be appropriate to address fatigue management and report back to the Senate Commerce Committee and the House Committee on Transportation and Infrastructure within 18 months following enactment. While the railroads and rail labor organizations have initiated a number of discrete pilot projects to address fatigue, it is unclear whether real progress is being made. If a consensus cannot be reached by the working group, the Department of Transportation would be required to submit its own recommendations within 2 years following enactment.

I look forward to working with my colleagues in moving this bill through the legislative process in the weeks ahead. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1402

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Railroad Safety Improvement Act".

#### SEC. 2. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or re-

peal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

#### SEC. 3. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Amendment of title 49, United States Code.
- Sec. 3. Table of contents.

#### TITLE I—AUTHORIZATION OF APPROPRIATIONS

##### Sec. 101. Authorization of appropriations.

#### TITLE II—RULEMAKING, INSPECTION, ENFORCEMENT, AND PLANNING AUTHORITY

- Sec. 201. National crossing inventory.
- Sec. 202. Grade crossing elimination and consolidation.
- Sec. 203. Model legislation for driver behavior.
- Sec. 204. Operation Lifesaver.
- Sec. 205. Transportation security.
- Sec. 206. Railroad accident and incident reporting.
- Sec. 207. Railroad radio monitoring authority.
- Sec. 208. Recommendations on fatigue management.
- Sec. 209. Positive train control.
- Sec. 210. Positive train control implementation.
- Sec. 211. Survey of rail bridge structures.
- Sec. 212. Railroad police.
- Sec. 213. Federal Railroad Administration employee training.

#### TITLE III—MISCELLANEOUS PROVISIONS

- Sec. 301. Technical amendments regarding enforcement by the Attorney General.
- Sec. 302. Technical amendments to civil penalty provisions.
- Sec. 303. Technical amendments to eliminate unnecessary provisions.

#### TITLE I—AUTHORIZATION OF APPROPRIATIONS

##### SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Section 20117(a) is amended to read as follows:

"(a) GENERAL.—There are authorized to be appropriated to the Secretary of Transportation to carry out this chapter—

- "(1) \$166,000,000 for the fiscal year ending September 30, 2004;
- "(2) \$176,000,000 for the fiscal year ending September 30, 2005;
- "(3) \$185,000,000 for the fiscal year ending September 30, 2006;
- "(4) \$192,000,000 for the fiscal year ending September 30, 2007; and
- "(5) \$200,000,000 for the fiscal year ending September 30, 2008."

#### TITLE II—RULEMAKING, INSPECTION, ENFORCEMENT, AND PLANNING AUTHORITY

##### SEC. 201. NATIONAL CROSSING INVENTORY.

(a) In General.—Chapter 201 is amended by adding at the end the following:

##### "§20154. National crossing inventory

"(a) INITIAL REPORTING OF INFORMATION ABOUT PREVIOUSLY UNREPORTED CROSSINGS.—Not later than 6 months after the date of enactment of the Federal Railroad Safety Improvement Act or 6 months after a new crossing becomes operational, whichever occurs later, each railroad carrier shall—

"(1) report to the Secretary of Transportation current information, as specified by the Secretary, concerning each previously unreported crossing through which it operates; or

"(2) ensure that the information has been reported to the Secretary by another railroad carrier that operates through the crossing.

"(b) UPDATING OF CROSSING INFORMATION.—(1) On a periodic basis beginning not later than 18 months after the date of enactment of the Federal Railroad Safety Improvement Act and on or before September 30 of every third year thereafter, or as otherwise specified by the Secretary, each railroad carrier shall—

"(A) report to the Secretary current information, as specified by the Secretary, concerning each crossing through which it operates; or

"(B) ensure that the information has been reported to the Secretary by another railroad carrier that operates through the crossing.

"(2) A railroad carrier that sells a crossing on or after the date of enactment of the Federal Railroad Safety Improvement Act, shall, not later than the date that is 18 months after the date of enactment of the Act or 3 months after the sale, whichever occurs later, or as otherwise specified by the Secretary, report to the Secretary current information, as specified by the Secretary, concerning the change in ownership of the crossing.

"(c) RULEMAKING AUTHORITY.—The Secretary shall prescribe the regulations necessary to implement this section. The Secretary may enforce each provision of the Federal Railroad Administration's Highway-Rail Crossing Inventory Instructions and Procedures Manual that is in effect on the date of enactment of the Federal Railroad Safety Improvement Act, until such provision is superseded by a regulation issued under this section.

"(d) DEFINITIONS.—In this section:

"(1) CROSSING.—The term 'crossing' means a location within a State, other than a location where one or more railroad tracks cross one or more railroad tracks either at grade or grade-separated, where—

"(A) a public highway, road, or street, or a private roadway, including associated sidewalks and pathways, crosses one or more railroad tracks either at grade or grade-separated; or

"(B) a dedicated pedestrian pathway that is not associated with a public highway, road, or street, or a private roadway, crosses one or more railroad tracks either at grade or grade-separated.

"(2) STATE.—The term 'State' means a State of the United States, the District of Columbia, or Puerto Rico."

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 is amended by inserting after the item relating to section 20153 the following:

"20154. National crossing inventory".

(c) REPORTING AND UPDATING.—Section 130 of title 23, United States Code, is amended by adding at the end the following:

"(k) NATIONAL CROSSING INVENTORY.—

"(1) INITIAL REPORTING OF CROSSING INFORMATION.—Not later than 6 months after the date of enactment of the Federal Railroad Safety Improvement Act or within 6 months of a new crossing becoming operational, whichever occurs later, each State shall report to the Secretary of Transportation current information, as specified by the Secretary, concerning each previously unreported crossing located within its borders.

"(2) PERIODIC UPDATING OF CROSSING INFORMATION.—On a periodic basis beginning not later than 18 months after the date of enactment of the Federal Railroad Safety Improvement Act and on or before September 30 of every third year thereafter, or as otherwise specified by the Secretary, each State

shall report to the Secretary current information, as specified by the Secretary, concerning each crossing located within its borders.

“(3) RULEMAKING AUTHORITY.—The Secretary shall prescribe the regulations necessary to implement this section. The Secretary may enforce each provision of the Federal Railroad Administration’s Highway-Rail Crossing Inventory Instructions and Procedures Manual that is in effect on the date of enactment of the Federal Railroad Safety Improvement Act, until such provision is superseded by a regulation issued under this subsection.

“(4) DEFINITIONS.—In this subsection, the terms ‘crossing’ and ‘State’ have the meaning given those terms by section 20154(d)(1) and (2), respectively, of title 49.”

(d) CIVIL PENALTIES.—

(1) Section 21301(a)(1) is amended—

(A) by inserting “with section 20154 or ” after “comply” in the first sentence; and

(B) by inserting “section 20154 of this title or” after “violating” in the second sentence.

(2) Section 21301(a)(2) is amended by inserting “The Secretary shall impose a civil penalty for a violation of section 20154 of this title.” after the first sentence.

#### SEC. 202. GRADE CROSSING ELIMINATION AND CONSOLIDATION.

(a) CROSSING REDUCTION PLAN.—Within 24 months after the date of enactment of this Act, the Secretary of Transportation shall develop and transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a plan for a joint initiative with States and municipalities to systematically reduce the number of public and private highway-rail grade crossings by 1 percent per year in each of the succeeding 10 years. The plan shall include—

(1) a prioritization of crossings for elimination or consolidation, based on considerations including—

(A) whether the crossing has been identified as high risk;

(B) whether the crossing is located on a designated high-speed corridor or on a railroad right-of-way utilized for the provision of intercity or commuter passenger rail service; and

(C) the existing level of protection;

(2) suggested guidelines for the establishment of new public and private highway-rail grade crossings, with the goal of avoiding unnecessary new crossings through careful traffic, zoning, and land use planning; and

(3) an estimate of the costs of implementing the plan and suggested funding sources.

(b) CONSULTATION WITH STATES.—In preparing the plan required by subsection (a), the Secretary shall seek the advice of State officials, including highway, rail, and judicial officials, with jurisdiction over crossing safety, including crossing closures. The Secretary and State officials shall consider—

(1) the feasibility of consolidating and improving multiple crossings in a single community;

(2) the impact of closure on emergency vehicle response time, traffic delays, and public inconvenience; and

(3) the willingness of a municipality to participate in the elimination or consolidation of crossings.

(c) GUIDE TO CROSSING CONSOLIDATION AND CLOSURE.—Within 1 year after the date of enactment of this Act, the Secretary shall update, reissue, and distribute the publication entitled “A Guide to Crossing Consolidation and Closure”.

(d) INCENTIVE PAYMENTS FOR AT-GRADE CROSSING CLOSURES.—Section 130(i)(3)(B) of title 23, United States Code is amended by striking “\$7,500.” and inserting “\$15,000.”

(e) FUNDING FOR PLAN.—From amounts authorized by section 20117(a)(1) of title 49, United States Code, to the Secretary, there shall be available \$500,000 for fiscal year 2004 to prepare the plan required by this section, such sums to remain available until the plan is transmitted to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure as required by subsection (a).

#### SEC. 203. MODEL LEGISLATION FOR DRIVER BEHAVIOR.

(a) IN GENERAL.—Section 20151 is amended—

(1) by striking the section caption and inserting the following:

“**§20151. Strategy to prevent railroad trespassing and vandalism and violation of grade crossing signals**”;

(2) by striking “safety,” in subsection (a) and inserting “safety and violations of highway-rail grade crossing signals.”;

(3) by striking the second sentence of subsection (a) and inserting “The evaluation and review shall be completed not later than 1 year after the date of enactment of the Federal Railroad Safety Improvement Act.”; and

(4) by striking “LEGISLATION.—Within 18 months after November 2, 1994, the” in subsection (c) and inserting “LEGISLATION FOR VANDALISM AND TRESPASSING PENALTIES.—The”;

(5) by adding at the end the following:

“(d) MODEL LEGISLATION FOR GRADE-CROSSING VIOLATIONS.—Within 2 years after the date of the enactment of the Federal Railroad Safety Improvement Act, the Secretary, after consultation with State and local governments and railroad carriers, shall develop and make available to State and local governments model State legislation providing for civil or criminal penalties, or both, for violations of highway-rail grade crossing signals.

“(e) VIOLATION DEFINED.—In this section, the term ‘violation of highway-rail grade crossing signals’ includes any action by a motorist, unless directed by an authorized safety officer—

“(1) to drive around or through a grade crossing gate in a position intended to block passage over railroad tracks;

“(2) to drive through a flashing grade crossing signal;

“(3) to drive through a grade crossing with passive warning signs without determining that the grade crossing could be safely crossed before any train arrived; and

“(4) in the vicinity of a grade crossing, that creates a hazard of an accident involving injury or property damage at the grade crossing.”.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 is amended by striking the item relating to section 20151 and inserting the following:

“20151. Strategy to prevent railroad trespassing and vandalism and violation of grade crossing signals”.

#### SEC. 204. OPERATION LIFESAVER.

Section 20117(e) is amended to read as follows:

“(e) OPERATION LIFESAVER.—In addition to amounts otherwise authorized by law, from the amounts authorized to be appropriated under subsection (a), there shall be available for railroad research and development \$1,250,000 for fiscal year 2004, \$1,300,000 for fiscal year 2005, \$1,350,000 for fiscal year 2006, \$1,400,000 for fiscal year 2007, and \$1,460,000 for fiscal year 2008 to support Operation Lifesaver, Inc.”.

#### SEC. 205. TRANSPORTATION SECURITY.

(a) MEMORANDUM OF AGREEMENT.—Within 60 days after the date of enactment of this

Act, the Secretary of Transportation and the Secretary of Homeland Security shall execute a memorandum of agreement governing the roles and responsibilities of the Department of Transportation and the Department of Homeland Security, respectively, in addressing railroad transportation security matters, including the processes the departments will follow to promote communications, efficiency, and nonduplication of effort.

(b) RAIL SAFETY REGULATIONS.—Section 20103(a) is amended to read as follows:

“(a) REGULATIONS AND ORDERS.—The Secretary of Transportation, as necessary, shall prescribe regulations and issue orders for every area of railroad safety, including security, supplementing laws and regulations in effect on October 16, 1970. When prescribing a security regulation or issuing a security order that affects the safety of railroad operations, the Secretary of Homeland Security shall consult with the Secretary of Transportation.”.

#### SEC. 206. RAILROAD ACCIDENT AND INCIDENT REPORTING.

Section 20901(a) is amended to read as follows:

“(a) GENERAL REQUIREMENTS.—On a periodic basis specified by the Secretary of Transportation but not less frequently than quarterly, a railroad carrier shall file a report with the Secretary on all accidents and incidents resulting in injury or death to an individual or damage to equipment or a roadbed arising from the carrier’s operations during the specified period. The report shall state the nature, cause, and circumstances of each reported accident or incident. If a railroad carrier assigns human error as a cause, the report shall include, at the option of each employee whose error is alleged, a statement by the employee explaining any factors the employee alleges contributed to the accident or incident.”.

#### SEC. 207. RAILROAD RADIO MONITORING AUTHORITY.

Section 20107 is amended by inserting at the end the following:

“(c) RAILROAD RADIO COMMUNICATIONS.—

“(1) IN GENERAL.—To carry out the Secretary’s responsibilities under this part and under chapter 51, the Secretary may authorize officers, employees, or agents of the Secretary to conduct the following activities at reasonable times:

“(A) Intercepting a radio communication that is broadcast or transmitted over a frequency authorized for the use of one or more railroad carriers by the Federal Communications Commission, with or without making their presence known to the sender or other receivers of the communication and with or without obtaining the consent of the sender or other receivers of the communication.

“(B) Communicating the existence, contents, substance, purport, effect, or meaning of the communication, subject to the restrictions in paragraph (3).

“(C) Receiving or assisting in receiving the communication (or any information therein contained).

“(D) Disclosing the contents, substance, purport, effect, or meaning of the communication (or any part thereof of such communication) or using the communication (or any information contained therein), subject to the restrictions in paragraph (3), after having received the communication or acquired knowledge of the contents, substance, purport, effect, or meaning of the communication (or any part thereof).

“(E) Recording the communication by any means, including writing and tape recording.

“(2) LIMITATION.—The Secretary, and officers, employees, and agents of the Department of Transportation authorized by the

Secretary may engage in the activities authorized by paragraph (1) for the purpose of accident prevention, including, but not limited to, accident investigation.

“(3) USE OF INFORMATION.—

“(A) Except as provided in subparagraph (F), information obtained through activities authorized by paragraphs (1) and (2) shall not be admitted into evidence in any administrative or judicial proceeding except to impeach evidence offered by a party other than the Federal Government regarding the existence, electronic characteristics, content, substance, purport, effect, meaning, or timing of, or identity of parties to, a communication intercepted pursuant to paragraphs (1) and (2) in proceedings pursuant to sections 5122, 20702(b), 20111, 20112, 20113, or 20114 of this title.

“(B) If information obtained through activities set forth in paragraphs (1) and (2) is admitted into evidence for impeachment purposes in accordance with subparagraph (A), the court, administrative law judge, or other officer before whom the proceeding is conducted may make such protective orders regarding the confidentiality or use of the information as may be appropriate in the circumstances to protect privacy and administer justice.

“(C) Information obtained through activities set forth in paragraphs (1) and (2) shall not be subject to publication or disclosure, or search or review in connection therewith, under section 552 of title 5.

“(D) No evidence shall be excluded in an administrative or judicial proceeding solely because the government would not have learned of the existence of or obtained such evidence but for the interception of information that is not admissible in such proceeding under subparagraph (A).

“(E) Nothing in this subsection shall be construed to impair or otherwise affect the authority of the United States to intercept a communication, and collect, retain, analyze, use, and disseminate the information obtained thereby, under a provision of law other than this subsection.

“(F) No information obtained by an activity authorized by paragraph (1)(A) that was undertaken solely for the purpose of accident investigation may be introduced into evidence in any administrative or judicial proceeding in which civil or criminal penalties may be imposed.

(4) APPLICATION WITH OTHER LAW.—Section 705 of the Communications Act of 1934 (47 U.S.C. 605) and chapter 119 of title 18 shall not apply to conduct authorized by and pursuant to this subsection.

“(d) REASONABLE TIME DEFINED.—In this section, the term ‘at reasonable times’ means at any time that the railroad carrier being inspected or investigated is performing its rail transportation business.”.

#### SEC. 208. RECOMMENDATIONS ON FATIGUE MANAGEMENT.

(a) WORKING GROUP ESTABLISHED.—The Railroad Safety Advisory Committee of the Federal Railroad Administration shall convene a working group to consider what legislative or other changes the Secretary of Transportation deems necessary to address fatigue management for railroad employees subject to chapter 211 of title 49, United States Code. The working group shall consider—

(1) the varying circumstances of rail carrier operations and appropriate fatigue countermeasures to address those varying circumstances, based on current and evolving scientific and medical research on circadian rhythms and human sleep and rest requirements;

(2) research considered by the Federal Motor Carrier Safety Administration in de-

vising new hours of service regulations for motor carriers;

(3) the benefits and costs of modifying the railroad hours of service statute or implementing other fatigue management countermeasures for railroad employees subject to chapter 211; and

(4) ongoing and planned initiatives by the railroads and rail labor organizations to address fatigue management.

(b) REPORT TO CONGRESS.—Not later than 24 months after the date of enactment of this Act, the working group convened under subsection (a) shall submit a report containing its conclusions and recommendations to the Railroad Safety Advisory Committee and the Secretary of Transportation. The Secretary shall transmit the report to the Senate Committee on Commerce, Science, and Transportation and to the House Committee on Transportation and Infrastructure.

(c) RECOMMENDATIONS.—If the Railroad Safety Advisory Committee does not reach a consensus on recommendations within 24 months after the date of enactment of this Act, the Secretary of Transportation shall, within 36 months after the date of enactment of this Act, submit to the Senate Committee on Commerce, Science, and Transportation and to the House Committee on Transportation and Infrastructure recommendations for legislative, regulatory, or other changes to address fatigue management for railroad employees.

#### SEC. 209. POSITIVE TRAIN CONTROL.

Within 6 months after the date of enactment of this Act, the Secretary of Transportation shall prescribe a final rule addressing safety standards for positive train control systems or other safety technologies that provide similar safety benefits.

#### SEC. 210. POSITIVE TRAIN CONTROL IMPLEMENTATION.

(a) REPORT ON PILOT PROJECTS.—Within 3 months after completion of the North American Joint Positive Train Control Project, the Secretary of Transportation shall submit a report on the progress of on-going and completed projects to implement positive train control technology or other safety technologies that provide similar safety benefits to the Senate Committee on Commerce, Science, and Transportation and to the House Committee on Transportation and Infrastructure. The report shall include recommendations for future projects and any legislative or other changes the Secretary deems necessary.

(b) AUTHORIZATION OF APPROPRIATIONS.—The Secretary shall establish a grant program with a 50 percent match requirement for the implementation of positive train control technology or other safety technologies that provide similar safety benefits. From the amounts authorized to be appropriated for each of fiscal years 2004 through 2008 under section 20117(a) of title 49, United States Code, there shall be made available for the grant program—

(1) \$16,000,000 for fiscal year 2004;

(2) \$18,000,000 for fiscal year 2005; and

(3) \$20,000,000 for each of fiscal years 2006 through 2008.

#### SEC. 211. SURVEY OF RAIL BRIDGE STRUCTURES.

The Secretary of Transportation shall conduct a safety survey of the structural integrity of railroad bridges and railroads' programs of inspection and maintenance of railroad bridges. The Secretary shall issue a report to Congress at the completion of the survey, including a finding by the Secretary concerning whether the Secretary should issue regulations governing the safety of railroad bridges.

#### SEC. 212. RAILROAD POLICE.

Section 28101 is amended by striking “the rail carrier” each place it appears and inserting “any rail carrier”.

#### SEC. 213. FEDERAL RAILROAD ADMINISTRATION EMPLOYEE TRAINING.

From the amounts authorized to be appropriated for fiscal year 2004 by section 20117(a)(1) of title 49, United States Code, there shall be made available to the Secretary of Transportation \$300,000 for the Federal Railroad Administration to perform a demonstration program to provide centralized training for its employees. The Secretary of Transportation shall report on the results of such training and provide further recommendations to the Congress.

#### TITLE III—MISCELLANEOUS PROVISIONS

#### SEC. 301. TECHNICAL AMENDMENTS REGARDING ENFORCEMENT BY THE ATTORNEY GENERAL.

Section 20112(a) is amended—

(1) by inserting “this part, except for section 20109 of this title, or” in paragraph (1) after “enforce,”;

(2) by striking “21301” in paragraph (2) and inserting “21301, 21302, or 21303”;

(3) by striking “subpena” in paragraph (3) and inserting “subpena, request for production of documents or other tangible things, or request for testimony by deposition”; and

(4) by striking “chapter.” in paragraph (3) and inserting “part.”.

#### SEC. 302. TECHNICAL AMENDMENTS TO CIVIL PENALTY PROVISIONS.

(a) GENERAL VIOLATIONS OF CHAPTER 201.—Section 21301(a)(2) is amended—

(1) by striking “\$10,000.” and inserting “\$10,000 or the amount to which the stated maximum penalty is adjusted if required by the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note).”; and

(2) by striking “\$20,000.” and inserting “\$20,000 or the amount to which the stated maximum penalty is adjusted if required by the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note).”.

(b) ACCIDENT AND INCIDENT VIOLATIONS OF CHAPTER 201; VIOLATIONS OF CHAPTERS 203 THROUGH 209.—

(1) Section 21302(a)(2) is amended—

(A) by striking “\$10,000.” and inserting “\$10,000 or the amount to which the stated maximum penalty is adjusted if required by the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note).”; and

(B) by striking “\$20,000.” and inserting “\$20,000 or the amount to which the stated maximum penalty is adjusted if required by the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note).”.

(2) Section 21302 is amended by adding at the end the following:

“(c) SETOFF.—The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the person liable for the penalty.

“(d) DEPOSIT IN TREASURY.—A civil penalty collected under this section shall be deposited in the Treasury as miscellaneous receipts.”.

(c) VIOLATIONS OF CHAPTER 211.—

(1) Section 21303(a)(2) is amended—

(A) by striking “\$10,000.” and inserting “\$10,000 or the amount to which the stated maximum penalty is adjusted if required by the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note).”; and

(B) by striking “\$20,000.” and inserting “\$20,000 or the amount to which the stated maximum penalty is adjusted if required by the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note).”.

(2) Section 21303 is amended by adding at the end the following:

“(c) SETOFF.—The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the person liable for the penalty.

“(d) DEPOSIT IN TREASURY.—A civil penalty collected under this section shall be deposited in the Treasury as miscellaneous receipts.”.

**SEC. 303. TECHNICAL AMENDMENTS TO ELIMINATE UNNECESSARY PROVISIONS.**

(a) IN GENERAL.—Chapter 201 is amended—  
(1) by striking the second sentence of section 20103(f);

- (2) by striking section 20145;
- (3) by striking section 20146; and
- (4) by striking section 20150.

(b) CONFORMING AMENDMENTS.—The chapter analysis for chapter 201 is amended by striking the items relating to sections 20145, 20146, and 20150 and inserting at the appropriate place in the analysis the following:

- “20145. [Repealed].
- “20146. [Repealed]
- “20150. [Repealed]”.

By Mr. DOMENICI (for himself, Mr. BINGAMAN, Mr. CRAIG, and Mr. AKAKA) (by request):

S.J. Res. 16. A joint resolution to approve the “Compact of Free Association, as amended between the Government of the United States of America and the Government of the Federated States of Micronesia”, and the “Compact of Free Association, as amended between the Government of the United States of America and the Government of the Republic of the Marshall Islands”, and otherwise to amend Public Law 99-239, and to appropriate for the purposes of amended Public Law 99-239 for fiscal years ending on or before September 30, 2023, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. DOMENICI. Mr. President, on behalf of myself and Senators BINGAMAN, CRAIG and AKAKA—colleagues from the Committee on Energy and Natural Resources—I am pleased to introduce legislation recently transmitted by the Administration that would strengthen our Nation’s relationship with two Pacific Island nations with which we have a special bond—the Federated States of Micronesia, FSM, and the Republic of the Marshall Islands, RMI.

The United States has a long history of involvement in the islands of Micronesia in the Western Pacific—from 19th century voyages of Nantucket whaling ships, that inspired the literature of Herman Melville, to the development of nuclear weapons and missile defense systems that are cornerstones of our Nation’s military strength. In 1947, following the bloody battles of World War II on the beaches of Kwajalein and Saipan, our nation’s role changed fundamentally when the United States became Administrator of the region under the United Nation’s Trusteeship system. As Administrator of the U.N. Trust Territory of the Pacific Islands, the United States governed the islands for over forty years; not as an occupation force or as sovereign, but with the obligation to promote the political, economic, and social development of the inhabitants.

In 1986, the United States fulfilled its obligation to the U.N. with respect to the islands of Micronesia and the Marshall Islands following implementation

of the Compact of Free Association. The Compact formally ended U.S. Administration and allowed these countries to achieve self-government and recognition as full members of the community of nations. However, and most significantly, the Compact also allowed the United States and these new nations to maintain the special relationship forged during the Trusteeship. For seventeen years now, the Compact has continued to provide for mutual defense as well as political and economic stability in a region of vital interest to the United States.

The legislation being introduced today is necessary to update and extend various provisions of the Compact, particularly the economic assistance provisions that are due to expire on September 30 of this year. Representatives of Micronesia, the Marshall Islands and the United States have invested tremendous effort over the past four years in negotiating these amendments. We commend Al Short, Peter Christian, and Gerald Zackios, the U.S., FSM, and RMI negotiators, respectively, for their years of work to strengthen the Compact and the special relationship between our nations.

The agreements reached by the negotiators, as reflected by this legislation, would provide the resources needed to assure continued economic development and mutual security in the islands. Pursuant to those agreements, trust funds will be established to provide a mechanism for the eventual phase-out of annual financial assistance from the United States. The parties have also agreed to changes that will assure greater accountability and effectiveness in the use of U.S. financial and program assistance. Continued access to the vitally important Ronald Reagan Missile Test Site at Kwajalein Atoll is provided. The Compact’s immigration provisions have been updated to reduce threats to our country’s homeland security and to reduce the impact of migration on the neighboring islands of Hawaii, Guam, and the Northern Mariana Islands. These changes are made while continuing to allow citizens of the FSM and RMI the opportunity to migrate to the United States as non-immigrants for education, employment, and residence.

Congressional consideration of this legislation comes at a time when the issue of nation-building is receiving increased attention. Our 60 years of experience of nation-building in Micronesia and the Marshall Islands underscores the importance of partnership, planning, adequate resources, and sustained commitment. The task in the former Trust Territory has turned out to be neither easy nor quick. However, virtually all who have examined the Compact agree that it has successfully met its objectives of promoting self-government, mutual defense and economic stability. There is also agreement that there is much more to be done. The FSM and RMI still have tremendous challenges in improving health and

education and in further developing their economies so that they can provide health and education and in further developing their economies so that they can provide more resources to meet the basic needs of the people. This is a particularly daunting task given that each nation is dispersed over a vast area of the remote western Pacific Ocean.

We too face a considerable challenge given how little time we have to consider this package. The assistance provisions of the current Compact expire in just 11 weeks. While the negotiators have done an excellent job, it is our understanding that they, and the General Accounting Office, will present several issues to Congress for further consideration and we expect that there will be a need for fine-tuning the package.

We look forward to working with our colleagues in the Senate, House, and the Administration in trying to meet the demanding deadline, to consider these remaining issues, and to assure the continued success of the special relationship between the United States, Micronesia and the Marshall Islands.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 1215. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 2658, making appropriations for the Department of Defense for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table.

SA 1216. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 2658, supra; which was ordered to lie on the table.

SA 1217. Mr. STEVENS proposed an amendment to the bill H.R. 2658, supra.

SA 1218. Mr. MILLER submitted an amendment intended to be proposed by him to the bill H.R. 2658, supra; which was ordered to lie on the table.

SA 1219. Ms. COLLINS (for herself and Ms. SNOWE) submitted an amendment intended to be proposed by her to the bill H.R. 2658, supra; which was ordered to lie on the table.

SA 1220. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill H.R. 2658, supra; which was ordered to lie on the table.

SA 1221. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill H.R. 2658, supra; which was ordered to lie on the table.

SA 1222. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill H.R. 2658, supra; which was ordered to lie on the table.

SA 1223. Mr. GRAHAM, of South Carolina (for himself and Mr. HOLLINGS) submitted an amendment intended to be proposed by him to the bill H.R. 2658, supra; which was ordered to lie on the table.

SA 1224. Mr. STEVENS (for Mr. INHOFE) proposed an amendment to amendment SA 1217 proposed by Mr. STEVENS to the bill H.R. 2658, supra.

SA 1225. Mr. STEVENS (for Mr. DODD) proposed an amendment to amendment SA 1217 proposed by Mr. STEVENS to the bill H.R. 2658, supra.

SA 1226. Mr. STEVENS (for Ms. SNOWE (for himself and Ms. COLLINS)) proposed an amendment to amendment SA 1217 proposed by Mr. STEVENS to the bill H.R. 2658, supra.

SA 1227. Mr. STEVENS (for Mr. BREAU) proposed an amendment to amendment SA



1217 proposed by Mr. STEVENS to the bill H.R. 2658, *supra*.

SA 1228. Mr. GRAHAM, of Florida (for himself and Mr. NELSON, of Florida) submitted an amendment intended to be proposed by him to the bill H.R. 2658, *supra*; which was ordered to lie on the table.

SA 1229. Mr. CHAFEE submitted an amendment intended to be proposed by him to the bill H.R. 2658, *supra*; which was ordered to lie on the table.

SA 1230. Mr. WYDEN (for himself and Mr. BYRD) submitted an amendment intended to be proposed by him to the bill H.R. 2658, *supra*; which was ordered to lie on the table.

SA 1231. Mr. BAYH (for himself and Mr. LUGAR) submitted an amendment intended to be proposed by him to the bill H.R. 2658, *supra*; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

**SA 1215.** Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 2658, making appropriations for the Department of Defense for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table, as follows:

Insert after section 8123 the following:

SEC. 8124. (a) AMOUNTS AVAILABLE FOR UPGRADES OF M1A1 ABRAMS TANK TRANSMISSIONS.—Of the amount appropriated by title II of this Act under the heading "OPERATION AND MAINTENANCE, ARMY" and available for land systems depot maintenance, \$15,000,000 may be available for upgrades of M1A1 Abrams tank transmissions.

(b) SUPPLEMENT NOT SUPPLANT.—The amount available under subsection (a) for upgrades of M1A1 Abrams tank transmissions is in addition to any other amounts available under this Act for upgrades of M1A1 Abrams tank transmissions.

**SA 1216.** Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 2658, making appropriations for the Department of Defense for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table, as follows:

On page 120, between lines 17 and 18, insert the following:

SEC. 8124. (a) Subsection (a) of section 2474 of title 10, United States Code, is amended by striking "depot-level activity" and inserting "industrial activity".

(b) Subsection (b)(1)(A) of such section is amended by inserting "manufacturing or" after "including any".

**SA 1217.** Mr. STEVENS proposed an amendment to the bill H.R. 2658, making appropriations for the Department of Defense for the fiscal year ending September 30, 2004, and for other purposes; as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2004, for military functions administered by the Department of Defense, and for other purposes, namely:

### TITLE I

#### MILITARY PERSONNEL

##### MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities,

permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, \$28,282,764,000.

##### MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, \$23,309,791,000.

##### MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, \$8,994,426,000.

##### MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, \$22,993,072,000.

##### RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 10211, 10302, and 3038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$3,584,735,000.

##### RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses au-

thorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$2,027,945,000.

##### RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$587,619,000.

##### RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 10211, 10305, and 8038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$1,332,301,000.

##### NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 10211, 10302, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$5,598,504,000.

##### NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 10211, 10305, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$2,228,830,000.

## TITLE II

### OPERATION AND MAINTENANCE

#### OPERATION AND MAINTENANCE, ARMY

##### (INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed \$11,034,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may



be made on his certificate of necessity for confidential military purposes, \$24,922,949,000: *Provided*, That of the funds appropriated in this paragraph, not less than \$355,000,000 shall be made available only for conventional ammunition care and maintenance.

#### OPERATION AND MAINTENANCE, NAVY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed \$4,463,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes, \$28,183,284,000.

#### OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law, \$3,418,023,000.

#### OPERATION AND MAINTENANCE, AIR FORCE

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed \$7,801,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes, \$26,698,375,000.

#### OPERATION AND MAINTENANCE, DEFENSE-WIDE (INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law, \$16,279,006,000, of which not to exceed \$35,000,000, may be available for the CINC initiative fund; and of which not to exceed \$45,000,000, can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: *Provided*, That none of the funds appropriated or otherwise made available by this Act may be used to plan or implement the consolidation of a budget or appropriations liaison office of the Office of the Secretary of Defense, the office of the Secretary of a military department, or the service headquarters of one of the Armed Forces into a legislative affairs or legislative liaison office: *Provided further*, That \$2,700,000, to remain available until expended, is available only for expenses relating to certain classified activities, and may be transferred as necessary by the Secretary to operation and maintenance appropriations or research, development, test and evaluation appropriations, to be merged with and to be available for the same time period as the appropriations to which transferred: *Provided further*, That any ceiling on the investment item unit cost of items that may be purchased with operation and maintenance funds shall not apply to the funds described in the preceding proviso: *Provided further*, That the transfer authority provided under this heading is in addition to any other transfer authority provided elsewhere in this Act.

#### OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of

services, supplies, and equipment; and communications, \$1,964,009,000.

#### OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, \$1,172,921,000.

#### OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, \$173,952,000.

#### OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, \$2,179,188,000.

#### OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft), \$4,273,131,000.

#### OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things, hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau, \$4,418,616,000.

#### OVERSEAS CONTINGENCY OPERATIONS TRANSFER ACCOUNT

##### (INCLUDING TRANSFER OF FUNDS)

For expenses directly relating to Overseas Contingency Operations by United States military forces, \$10,000,000, to remain available until expended: *Provided*, That the Secretary of Defense may transfer these funds only to military personnel accounts; operation and maintenance accounts within this title; the Defense Health Program appropriation; procurement accounts; research, development, test and evaluation accounts; and to working capital funds: *Provided further*, That the funds transferred shall be merged with and shall be available for the same purposes and for the same time period, as the appropriation to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the transfer authority provided in this paragraph is in addition to any other transfer authority contained elsewhere in this Act.

#### UNITED STATES COURTS OF APPEALS FOR THE ARMED FORCES

For salaries and expenses necessary for the United States Court of Appeals for the Armed Forces, \$10,333,000 of which not to exceed \$2,500 can be used for official representation purposes.

#### ENVIRONMENTAL RESTORATION, ARMY (INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, \$396,018,000, to remain available until transferred: *Provided*, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Army, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

#### ENVIRONMENTAL RESTORATION, NAVY (INCLUDING TRANSFER OF FUNDS)

For the Department of the Navy, \$256,153,000, to remain available until transferred: *Provided*, That the Secretary of the Navy shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Navy, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Navy, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

#### ENVIRONMENTAL RESTORATION, AIR FORCE (INCLUDING TRANSFER OF FUNDS)

For the Department of the Air Force, \$384,307,000, to remain available until transferred: *Provided*, That the Secretary of the Air Force shall, upon determining that such

funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Air Force, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Air Force, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, DEFENSE-WIDE  
(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense, \$24,081,000, to remain available until transferred: *Provided*, That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of Defense, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, FORMERLY  
USED DEFENSE SITES  
(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, \$312,619,000, to remain available until transferred: *Provided*, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris at sites formerly used by the Department of Defense, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

OVERSEAS HUMANITARIAN, DISASTER, AND  
CIVIC AID

For expenses relating to the Overseas Humanitarian, Disaster, and Civic Aid programs of the Department of Defense (consisting of the programs provided under sections 401, 402, 404, 2547, and 2561 of title 10, United States Code), \$59,000,000, to remain available until September 30, 2005.

FORMER SOVIET UNION THREAT REDUCTION

For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise, and for defense and military con-

tacts, \$450,800,000, to remain available until September 30, 2006: *Provided*, That of the amounts provided under this heading, \$10,000,000 shall be available only to support the dismantling and disposal of nuclear submarines, submarine reactor components, and warheads in the Russian Far East.

TITLE III  
PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$2,027,285,000, to remain available for obligation until September 30, 2006.

MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$1,444,462,000, to remain available for obligation until September 30, 2006.

PROCUREMENT OF WEAPONS AND TRACKED  
COMBAT VEHICLES, ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$1,732,004,000, to remain available for obligation until September 30, 2006.

PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$1,419,759,000, to remain available for obligation until September 30, 2006.

OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support, and non-tracked combat vehicles; the purchase of passenger motor vehicles for replacement only; and the purchase of 4 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed \$180,000 per vehicle; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$4,573,902,000, to remain available for obligation until September 30, 2006.

AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, \$9,017,548,000, to remain available for obligation until September 30, 2006.

WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, \$1,967,934,000, to remain available for obligation until September 30, 2006.

PROCUREMENT OF AMMUNITION, NAVY AND  
MARINE CORPS

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$924,355,000, to remain available for obligation until September 30, 2006.

SHIPBUILDING AND CONVERSION, NAVY

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation

thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

Carrier Replacement Program (AP), \$1,186,564,000;  
 NSSN, \$1,511,935,000;  
 NSSN (AP), \$827,172,000;  
 SSGN, \$930,700,000;  
 SSGN (AP), \$236,600,000;  
 CVN Refuelings (AP), \$232,832,000;  
 SSN Submarine Refuelings, \$450,000,000;  
 SSN Submarine Refuelings (AP), \$20,351,000;  
 SSBN Submarine Refuelings (AP), \$136,800,000;  
 DDG-51 Destroyer, \$3,218,311,000;  
 LPD-17, \$1,192,034,000;  
 LPD-17 (AP), \$75,000,000;  
 LHD-8, \$591,306,000;  
 LCAC Landing Craft Air Cushion, \$73,087,000;  
 Prior year shipbuilding costs, \$635,502,000;  
 Service Craft, \$15,980,000; and  
 For outfitting, post delivery, conversions, and first destination transportation, \$348,449,000;

In all: \$11,682,623,000, to remain available for obligation until September 30, 2008: *Provided*, That additional obligations may be incurred after September 30, 2008, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: *Provided further*, That none of the funds provided under this heading for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign facilities for the construction of major components of such vessel: *Provided further*, That none of the funds provided under this heading shall be used for the construction of any naval vessel in foreign shipyards.

#### OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of passenger motor vehicles for replacement only, and the purchase of 7 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed \$180,000 per vehicle; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, \$4,734,808,000, to remain available for obligation until September 30, 2006.

#### PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including the purchase of passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title,

to remain available for obligation until September 30, 2006.

#### AIRCRAFT PROCUREMENT, AIR FORCE

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, \$11,997,460,000, to remain available for obligation until September 30, 2006.

#### MISSILE PROCUREMENT, AIR FORCE

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, \$4,215,333,000, to remain available for obligation until September 30, 2006.

#### PROCUREMENT OF AMMUNITION, AIR FORCE

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$1,265,582,000, to remain available for obligation until September 30, 2006.

#### OTHER PROCUREMENT, AIR FORCE

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of passenger motor vehicles for replacement only, and the purchase of 1 vehicle required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed \$180,000 per vehicle; lease of passenger motor vehicles; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, \$11,536,097,000, to remain available for obligation until September 30, 2006.

#### PROCUREMENT, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of passenger motor vehicles for replacement only; and the purchase of 4 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed \$180,000 per vehicle; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, \$3,568,851,000, to remain available for obligation until September 30, 2006.

#### NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces, \$700,000,000, to remain available for obligation until September 30, 2006: *Provided*, That the Chiefs of the Reserve and National Guard components shall, not later than 30 days after the enactment of this Act, individually submit to the congressional defense committees the modernization priority assessment for their respective Reserve or National Guard component.

#### DEFENSE PRODUCTION ACT PURCHASES

For activities by the Department of Defense pursuant to sections 108, 301, 302, and 303 of the Defense Production Act of 1950 (50 U.S.C. App. 2078, 2091, 2092, and 2093), \$77,516,000, to remain available until expended.

#### TITLE IV

#### RESEARCH, DEVELOPMENT, TEST AND EVALUATION

##### RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, \$9,513,048,000, to remain available for obligation until September 30, 2005.

##### RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, \$14,886,381,000, to remain available for obligation until September 30, 2005: *Provided*, That funds appropriated in this paragraph which are available for the V-22 may be used to meet unique operational requirements of the Special Operations Forces: *Provided further*, That funds appropriated in this paragraph shall be available for the Cobra Judy program.

##### RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, \$20,086,290,000, to remain available for obligation until September 30, 2005.

##### RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the

military departments), necessary for basic and applied scientific research, development, test and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, \$18,774,428,000, to remain available for obligation until September 30, 2005.

OPERATIONAL TEST AND EVALUATION,  
DEFENSE

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation, in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith, \$304,761,000, to remain available for obligation until September 30, 2005.

TITLE V

REVOLVING AND MANAGEMENT FUNDS  
DEFENSE WORKING CAPITAL FUNDS

For the Defense Working Capital Funds, \$1,449,007,000: *Provided*, That during fiscal year 2004, funds in the Defense Working Capital Funds may be used for the purchase of not to exceed 4 passenger motor vehicles for replacement only for the Defense Logistics Agency.

NATIONAL DEFENSE SEALIFT FUND

For National Defense Sealift Fund programs, projects, and activities, and for expenses of the National Defense Reserve Fleet, as established by section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744), and for the necessary expenses to maintain and preserve a U.S.-flag merchant fleet to serve the national security needs of the United States, \$344,148,000, to remain available until expended: *Provided*, That none of the funds provided in this paragraph shall be used to award a new contract that provides for the acquisition of any of the following major components unless such components are manufactured in the United States: auxiliary equipment, including pumps, for all shipboard services; propulsion system components (that is; engines, reduction gears, and propellers); shipboard cranes; and spreaders for shipboard cranes: *Provided further*, That the exercise of an option in a contract awarded through the obligation of previously appropriated funds shall not be considered to be the award of a new contract: *Provided further*, That the Secretary of the military department responsible for such procurement may waive the restrictions in the first proviso on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: *Provided further*, That, notwithstanding any other provision of law, \$8,500,000 of the funds available under this heading shall be available in addition to other amounts otherwise available, only to finance the cost of constructing additional sealift capacity.

TITLE VI

OTHER DEPARTMENT OF DEFENSE  
PROGRAMS

DEFENSE HEALTH PROGRAM

For expenses, not otherwise provided for, for medical and health care programs of the Department of Defense, as authorized by law, \$15,656,913,000, of which \$14,918,791,000 shall be for Operation and maintenance, of which not

to exceed 2 percent shall remain available until September 30, 2005, and of which not more than \$7,420,972,000 shall be available for contracts entered into under the TRICARE program; of which \$327,826,000, to remain available for obligation until September 30, 2006, shall be for Procurement; of which \$410,296,000, to remain available for obligation until September 30, 2005, shall be for Research, development, test and evaluation.

CHEMICAL AGENTS AND MUNITIONS  
DESTRUCTION, ARMY

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, \$1,620,076,000, of which \$1,169,168,000 shall be for Operation and maintenance to remain available until September 30, 2005; \$79,212,000 shall be for Procurement to remain available until September 30, 2006; \$251,881,000 shall be for Research, development, test and evaluation to remain available until September 30, 2005; \$119,815,000 shall be for military construction to remain available until September 30, 2008: *Provided*, That, notwithstanding any other provision of law, \$10,000,000 of the funds available under this heading shall be expended only to fund Chemical Stockpile Emergency Preparedness Program evacuation route improvements in Calhoun County, Alabama.

DRUG INTERDICTION AND COUNTER-DRUG  
ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For drug interdiction and counter-drug activities of the Department of Defense, for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code; for Operation and maintenance; for Procurement; and for Research, development, test and evaluation, \$832,371,000: *Provided*, That the funds appropriated under this heading shall be available for obligation for the same time period and for the same purpose as the appropriation to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the transfer authority provided under this heading is in addition to any other transfer authority contained elsewhere in this Act.

OFFICE OF THE INSPECTOR GENERAL

For expenses and activities of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$162,449,000, of which \$160,049,000 shall be for Operation and maintenance, of which not to exceed \$700,000, is available for emergencies and extraordinary expenses to be expended on the approval or authority of the Inspector General, and payments may be made on the Inspector General's certificate of necessity for confidential military purposes and of which \$300,000, to remain available until September 30, 2005, shall be for Research, development, test and evaluation; and of which \$2,100,000, to remain available until September 30, 2006, shall be for Procurement.

TITLE VII

RELATED AGENCIES

CENTRAL INTELLIGENCE AGENCY RETIREMENT  
AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System

Fund, to maintain the proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System, \$226,400,000.

INTELLIGENCE COMMUNITY MANAGEMENT  
ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Intelligence Community Management Account, \$165,390,000, of which \$26,081,000 for the Advanced Research and Development Committee shall remain available until September 30, 2005: *Provided*, That of the funds appropriated under this heading, \$34,100,000 shall be transferred to the Department of Justice for the National Drug Intelligence Center to support the Department of Defense's counter-drug intelligence responsibilities, and of the said amount, \$1,500,000 for Procurement shall remain available until September 30, 2006 and \$1,000,000 for Research, development, test and evaluation shall remain available until September 30, 2005: *Provided further*, That the National Drug Intelligence Center shall maintain the personnel and technical resources to provide timely support to law enforcement authorities and the intelligence community by conducting document and computer exploitation of materials collected in Federal, State, and local law enforcement activity associated with counter-drug, counter-terrorism, and national security investigations and operations.

PAYMENT TO KAHOLAWE ISLAND CONVEYANCE, REMEDIATION, AND ENVIRONMENTAL RESTORATION FUND

For payment to Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Fund, as authorized by law, \$18,430,000, to remain available until expended.

NATIONAL SECURITY EDUCATION TRUST FUND

For the purposes of title VIII of Public Law 102-183, \$8,000,000, to be derived from the National Security Education Trust Fund, to remain available until expended.

TITLE VIII

GENERAL PROVISIONS

SEC. 8001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 8002. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: *Provided*, That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher: *Provided further*, That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980: *Provided further*, That the limitations of this provision shall not apply to foreign national employees of the Department of Defense in the Republic of Turkey.

SEC. 8003. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

SEC. 8004. No more than 20 percent of the appropriations in this Act which are limited

for obligation during the current fiscal year shall be obligated during the last 2 months of the fiscal year: *Provided*, That this section shall not apply to obligations for support of active duty training of reserve components or summer camp training of the Reserve Officers' Training Corps.

(TRANSFER OF FUNDS)

SEC. 8005. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed \$2,100,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided*, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by the Congress: *Provided further*, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority or any other authority in this Act: *Provided further*, That no part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress: *Provided further*, That a request for multiple reprogrammings of funds using authority provided in this section must be made prior to June 30, 2004.

(TRANSFER OF FUNDS)

SEC. 8006. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: *Provided*, That transfers may be made between such funds: *Provided further*, That transfers may be made between working capital funds and the "Foreign Currency Fluctuations, Defense" appropriation and the "Operation and Maintenance" appropriation accounts in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that such transfers may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure or increase the value of war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 8007. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 calendar days in session in advance to the congressional defense committees.

SEC. 8008. None of the funds provided in this Act shall be available to initiate: (1) a multiyear contract that employs economic order quantity procurement in excess of \$20,000,000 in any 1 year of the contract or that includes an unfunded contingent liability in excess of \$20,000,000; or (2) a contract for advance procurement leading to a multiyear contract that employs economic

order quantity procurement in excess of \$20,000,000 in any 1 year, unless the congressional defense committees have been notified at least 30 days in advance of the proposed contract award: *Provided*, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: *Provided further*, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed \$500,000,000 unless specifically provided in this Act: *Provided further*, That no multiyear procurement contract can be terminated without 10-day prior notification to the congressional defense committees: *Provided further*, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement.

Funds appropriated in title III of this Act may be used for multiyear procurement contracts as follows:

C-130 aircraft;  
and F/A-18E and F engine;  
F/A-18 aircraft;  
E-2C aircraft; and  
Virginia Class Submarine:

*Provided*, That the Secretary of the Navy may not enter into a multiyear contract for the procurement of more than one Virginia Class Submarine per year.

SEC. 8009. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported as required by section 401(d) of title 10, United States Code: *Provided*, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99-239: *Provided further*, That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam.

SEC. 8010. (a) During fiscal year 2004, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(b) The fiscal year 2005 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2005 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 2005.

(c) Nothing in this section shall be construed to apply to military (civilian) technicians.

SEC. 8011. None of the funds appropriated in this or any other Act may be used to initiate a new installation overseas without 30-day advance notification to the Committees on Appropriations.

SEC. 8012. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 8013. None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Secretary of Veterans Affairs from the Department of Defense Education Benefits Fund when time spent as a full-time student is credited toward completion of a service commitment: *Provided*, That this subsection shall not apply to those members who have reenlisted with this option prior to October 1, 1987: *Provided further*, That this subsection applies only to active components of the Army.

SEC. 8014. None of the funds appropriated by this Act or hereafter shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of the enactment of this Act, is performed by more than 10 Department of Defense civilian employees until a most efficient and cost-effective organization analysis is completed on such activity or function and certification of the analysis is made to the Committees on Appropriations of the House of Representatives and the Senate: *Provided*, That this section and subsections (a), (b), and (c) of 10 U.S.C. 2461 shall not apply to a commercial or industrial type function of the Department of Defense that: (1) is included on the procurement list established pursuant to section 2 of the Act of June 25, 1938 (41 U.S.C. 47), popularly referred to as the Javits-Wagner-O'Day Act; (2) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act; or (3) is planned to be converted to performance by a qualified firm under 51 percent ownership by an Indian tribe, as defined in section 450b(e) of title 25, United States Code, or a Native Hawaiian organization, as defined in section 637(a)(15) of title 15, United States Code: *Provided further*, That the conversion of any activity or function of the Department of Defense under the authority provided herein shall be credited toward any competitive or outsourcing goal, target or measurement that may be established by statute, regulation or policy and shall be deemed to be awarded under the authority of and in compliance with Public Law 98-369, Div. B, Title VII, sections 2723(a) and 2727(b) (codified at 10 U.S.C. 2304) for the competition or outsourcing of commercial activities.

(TRANSFER OF FUNDS)

SEC. 8015. Funds appropriated in title III of this Act for the Department of Defense Pilot Mentor-Protégé Program may be transferred to any other appropriation contained in this Act solely for the purpose of implementing a Mentor-Protégé Program developmental assistance agreement pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 2301 note), as amended, under the authority of this provision or any other transfer authority contained in this Act.

SEC. 8016. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and

mooring chain 4 inches in diameter and under unless the anchor and mooring chain are manufactured in the United States from components which are substantially manufactured in the United States: *Provided*, That for the purpose of this section manufactured will include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): *Provided further*, That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States: *Provided further*, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 8017. None of the funds appropriated by this Act available for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) or TRICARE shall be available for the reimbursement of any health care provider for inpatient mental health service for care received when a patient is referred to a provider of inpatient mental health care or residential treatment care by a medical or health care professional having an economic interest in the facility to which the patient is referred: *Provided*, That this limitation does not apply in the case of inpatient mental health services provided under the program for persons with disabilities under subsection (d) of section 1079 of title 10, United States Code, provided as partial hospital care, or provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services required by the patient, and the availability of that care.

SEC. 8018. Notwithstanding any other provision of law, during the current fiscal year, the Secretary of Defense may, by executive agreement, establish with host nation governments in NATO member states a separate account into which such residual value amounts negotiated in the return of United States military installations in NATO member states may be deposited, in the currency of the host nation, in lieu of direct monetary transfers to the United States Treasury: *Provided*, That such credits may be utilized only for the construction of facilities to support United States military forces in that host nation, or such real property maintenance and base operating costs that are currently executed through monetary transfers to such host nations: *Provided further*, That the Department of Defense's budget submission for fiscal year 2004 shall identify such sums anticipated in residual value settlements, and identify such construction, real property maintenance or base operating costs that shall be funded by the host nation through such credits: *Provided further*, That all military construction projects to be executed from such accounts must be previously approved in a prior Act of Congress: *Provided further*, That each such executive agreement with a NATO member host nation shall be reported to the congressional defense committees, the Committee on International Re-

lations of the House of Representatives and the Committee on Foreign Relations of the Senate 30 days prior to the conclusion and endorsement of any such agreement established under this provision.

SEC. 8019. None of the funds available to the Department of Defense may be used to demilitarize or dispose of M-1 Carbines, M-1 Garand rifles, M-14 rifles, .22 caliber rifles, .30 caliber rifles, or M-1911 pistols.

SEC. 8020. No more than \$500,000 of the funds appropriated or made available in this Act shall be used during a single fiscal year for any single relocation of an organization, unit, activity or function of the Department of Defense into or within the National Capital Region: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the congressional defense committees that such a relocation is required in the best interest of the Government.

SEC. 8021. In addition to the funds provided elsewhere in this Act, \$8,000,000 is appropriated only for incentive payments authorized by Section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544): *Provided*, That a prime contractor or a subcontractor at any tier that makes a subcontract award to any subcontractor or supplier as defined in 25 U.S.C. 1544 or a small business owned and controlled by an individual or individuals defined under 25 U.S.C. 4221(9) shall be considered a contractor for the purposes of being allowed additional compensation under section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544) whenever the prime contract or subcontract amount is over \$500,000 and involves the expenditure of funds appropriated by an Act making Appropriations for the Department of Defense with respect to any fiscal year: *Provided further*, That notwithstanding 41 U.S.C. §430, this section shall be applicable to any Department of Defense acquisition of supplies or services, including any contract and any subcontract at any tier for acquisition of commercial items produced or manufactured, in whole or in part by any subcontractor or supplier defined in 25 U.S.C. §1544 or a small business owned and controlled by an individual or individuals defined under 25 U.S.C. 4221(9): *Provided further*, That businesses certified as 8(a) by the Small Business Administration pursuant to section 8(a)(15) of Public Law 85-536, as amended, shall have the same status as other program participants under section 602 of Public Law 100-656, 102 Stat. 3825 (Business Opportunity Development Reform Act of 1988) for purposes of contracting with agencies of the Department of Defense.

SEC. 8022. None of the funds appropriated by this Act shall be available to perform any cost study pursuant to the provisions of OMB Circular A-76 if the study being performed exceeds a period of 24 months after initiation of such study with respect to a single function activity or 30 months after initiation of such study for a multi-function activity.

SEC. 8023. Funds appropriated by this Act for the American Forces Information Service shall not be used for any national or international political or psychological activities.

SEC. 8024. Notwithstanding any other provision of law or regulation, the Secretary of Defense may adjust wage rates for civilian employees hired for certain health care occupations as authorized for the Secretary of Veterans Affairs by section 7455 of title 38, United States Code.

SEC. 8025. (a) Of the funds for the procurement of supplies or services appropriated by this Act and hereafter, qualified nonprofit agencies for the blind or other severely handicapped shall be afforded the maximum practicable opportunity to participate as subcontractors and suppliers in the performance of contracts let by the Department of Defense.

(b) During the current fiscal year and hereafter, a business concern which has negotiated with a military service or defense agency a subcontracting plan for the participation by small business concerns pursuant to section 8(d) of the Small Business Act (15 U.S.C. 637(d)) shall be given credit toward meeting that subcontracting goal for any purchases made from qualified nonprofit agencies for the blind or other severely handicapped.

(c) For the purpose of this section, the phrase "qualified nonprofit agency for the blind or other severely handicapped" means a nonprofit agency for the blind or other severely handicapped that has been approved by the Committee for the Purchase from the Blind and Other Severely Handicapped under the Javits-Wagner-O'Day Act (41 U.S.C. 46-48).

SEC. 8026. During the current fiscal year, net receipts pursuant to collections from third party payers pursuant to section 1095 of title 10, United States Code, shall be made available to the local facility of the uniformed services responsible for the collections and shall be over and above the facility's direct budget amount.

SEC. 8027. During the current fiscal year, the Department of Defense is authorized to incur obligations of not to exceed \$350,000,000 for purposes specified in section 2350j(c) of title 10, United States Code, in anticipation of receipt of contributions, only from the Government of Kuwait, under that section: *Provided*, That upon receipt, such contributions from the Government of Kuwait shall be credited to the appropriations or fund which incurred such obligations.

#### (INCLUDING TRANSFER OF FUNDS)

SEC. 8028. Of the funds made available in this Act, not less than \$24,758,000 shall be available for the Civil Air Patrol Corporation: *Provided*, That funds identified for "Civil Air Patrol" under this section are intended for and shall be for the exclusive use of the Civil Air Patrol Corporation and not for the Air Force or any unit thereof.

SEC. 8029. (a) None of the funds appropriated in this Act are available to establish a new Department of Defense (department) federally funded research and development center (FFRDC), either as a new entity, or as a separate entity administrated by an organization managing another FFRDC, or as a nonprofit membership corporation consisting of a consortium of other FFRDCs and other non-profit entities.

(b) No member of a Board of Directors, Trustees, Overseers, Advisory Group, Special Issues Panel, Visiting Committee, or any similar entity of a defense FFRDC, and no paid consultant to any defense FFRDC, except when acting in a technical advisory capacity, may be compensated for his or her services as a member of such entity, or as a paid consultant by more than one FFRDC in a fiscal year: *Provided*, That a member of any such entity referred to previously in this subsection shall be allowed travel expenses and per diem as authorized under the Federal Joint Travel Regulations, when engaged in the performance of membership duties.

(c) Notwithstanding any other provision of law, none of the funds available to the department from any source during fiscal year 2004 may be used by a defense FFRDC, through a fee or other payment mechanism, for construction of new buildings, for payment of cost sharing for projects funded by Government grants, for absorption of contract overruns, or for certain charitable contributions, not to include employee participation in community service and/or development.

(d) Notwithstanding any other provision of law, of the funds available to the department

during fiscal year 2004, not more than 6,450 staff years of technical effort (staff years) may be funded for defense FFRDCs: *Provided*, That of the specific amount referred to previously in this subsection, not more than 1,050 staff years may be funded for the defense studies and analysis FFRDCs.

(e) The Secretary of Defense shall, with the submission of the department's fiscal year 2005 budget request, submit a report presenting the specific amounts of staff years of technical effort to be allocated for each defense FFRDC during that fiscal year.

(f) Notwithstanding any other provision of this Act, the total amount appropriated in this Act for FFRDCs is hereby reduced by \$50,000,000.

SEC. 8030. None of the funds appropriated or made available in this Act shall be used to procure carbon, alloy or armor steel plate for use in any Government-owned facility or property under the control of the Department of Defense which were not melted and rolled in the United States or Canada: *Provided*, That these procurement restrictions shall apply to any and all Federal Supply Class 9515, American Society of Testing and Materials (ASTM) or American Iron and Steel Institute (AISI) specifications of carbon, alloy or armor steel plate: *Provided further*, That the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: *Provided further*, That these restrictions shall not apply to contracts which are in being as of the date of the enactment of this Act.

SEC. 8031. For the purposes of this Act, the term "congressional defense committees" means the Armed Services Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives.

SEC. 8032. During the current fiscal year, the Department of Defense may acquire the modification, depot maintenance and repair of aircraft, vehicles and vessels as well as the production of components and other Defense-related articles, through competition between Department of Defense depot maintenance activities and private firms: *Provided*, That the Senior Acquisition Executive of the military department or defense agency concerned, with power of delegation, shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids: *Provided further*, That Office of Management and Budget Circular A-76 shall not apply to competitions conducted under this section.

SEC. 8033. (a)(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursu-

ant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products in that country.

(b) The Secretary of Defense shall submit to the Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal year 2004. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(c) For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

SEC. 8034. Appropriations contained in this Act that remain available at the end of the current fiscal year as a result of energy cost savings realized by the Department of Defense shall remain available for obligation for the next fiscal year to the extent, and for the purposes, provided in section 2865 of title 10, United States Code.

#### (INCLUDING TRANSFER OF FUNDS)

SEC. 8035. Amounts deposited during the current fiscal year to the special account established under 40 U.S.C. 572(b)(5)(A) and to the special account established under 10 U.S.C. 2667(d)(1) are appropriated and shall be available until transferred by the Secretary of Defense to current applicable appropriations or funds of the Department of Defense under the terms and conditions specified by 40 U.S.C. 572(b)(5)(B) and 10 U.S.C. 2667(d)(1)(B), to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred.

SEC. 8036. The President shall include with each budget for a fiscal year submitted to the Congress under section 1105 of title 31, United States Code, materials that shall identify clearly and separately the amounts requested in the budget for appropriation for that fiscal year for salaries and expenses related to administrative activities of the Department of Defense, the military departments, and the defense agencies.

SEC. 8037. Notwithstanding any other provision of law, funds available for "Drug Interdiction and Counter-Drug Activities, Defense" may be obligated for the Young Marines program.

#### (INCLUDING TRANSFER OF FUNDS)

SEC. 8038. During the current fiscal year, amounts contained in the Department of Defense Overseas Military Facility Investment Recovery Account established by section 2921(c)(1) of the National Defense Authorization Act of 1991 (Public Law 101-510; 10 U.S.C. 2687 note) shall be available until expended for the payments specified by section 2921(c)(2) of that Act.

SEC. 8039. (a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Air Force may convey at no cost to the Air Force, without consideration, to Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota relocatable military housing units located at Grand Forks Air Force Base and Minot Air Force Base that are excess to the needs of the Air Force.

(b) PROCESSING OF REQUESTS.—The Secretary of the Air Force shall convey, at no cost to the Air Force, military housing units under subsection (a) in accordance with the request for such units that are submitted to the Secretary by the Operation Walking Shield Program on behalf of Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota.

(c) RESOLUTION OF HOUSING UNIT CONFLICTS.—The Operation Walking Shield program shall resolve any conflicts among requests of Indian tribes for housing units under subsection (a) before submitting requests to the Secretary of the Air Force under subsection (b).

(d) INDIAN TRIBE DEFINED.—In this section, the term "Indian tribe" means any recognized Indian tribe included on the current list published by the Secretary of the Interior under section 104 of the Federally Recognized Indian Tribe Act of 1994 (Public Law 103-454; 108 Stat. 4792; 25 U.S.C. 479a-1).

SEC. 8040. During the current fiscal year, appropriations which are available to the Department of Defense for operation and maintenance may be used to purchase items having an investment item unit cost of not more than \$250,000.

SEC. 8041. (a) During the current fiscal year, none of the appropriations or funds available to the Department of Defense Working Capital Funds shall be used for the purchase of an investment item for the purpose of acquiring a new inventory item for sale or anticipated sale during the current fiscal year or a subsequent fiscal year to customers of the Department of Defense Working Capital Funds if such an item would not have been chargeable to the Department of Defense Business Operations Fund during fiscal year 1994 and if the purchase of such an investment item would be chargeable during the current fiscal year to appropriations made to the Department of Defense for procurement.

(b) The fiscal year 2005 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2005 Department of Defense budget shall be prepared and submitted to the Congress on the basis that any equipment which was classified as an end item and funded in a procurement appropriation contained in this Act shall be budgeted for in a proposed fiscal year 2005 procurement appropriation and not in the supply management business area or any other area or category of the Department of Defense Working Capital Funds.

SEC. 8042. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 2005: *Provided*, That funds appropriated, transferred, or otherwise credited to the Central Intelligence Agency Central Services Working Capital Fund during this or any prior or subsequent fiscal year shall remain available until expended: *Provided further*, That any funds appropriated or transferred to the Central Intelligence Agency for advanced research and development acquisition, for agent operations, and for covert action programs authorized by the President under section 503 of the National Security Act of 1947, as amended, shall remain available until September 30, 2005.

SEC. 8043. Notwithstanding any other provision of law, funds made available in this Act for the Defense Intelligence Agency may be used for the design, development, and deployment of General Defense Intelligence Program intelligence communications and intelligence information systems for the Services, the Unified and Specified Commands, and the component commands.

SEC. 8044. Of the funds appropriated to the Department of Defense under the heading "Operation and Maintenance, Defense-Wide", not less than \$10,000,000 shall be made available only for the mitigation of environmental impacts, including training and technical assistance to tribes, related administrative support, the gathering of information, documenting of environmental damage,



and developing a system for prioritization of mitigation and cost to complete estimates for mitigation, on Indian lands resulting from Department of Defense activities.

SEC. 8045. (a) None of the funds appropriated in this Act may be expended by an entity of the Department of Defense unless the entity, in expending the funds, complies with the Buy American Act. For purposes of this subsection, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

(b) If the Secretary of Defense determines that a person has been convicted of intentionally affixing a label bearing a "Made in America" inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall determine, in accordance with section 2410f of title 10, United States Code, whether the person should be debarred from contracting with the Department of Defense.

(c) In the case of any equipment or products purchased with appropriations provided under this Act, it is the sense of the Congress that any entity of the Department of Defense, in expending the appropriation, purchase only American-made equipment and products, provided that American-made equipment and products are cost-competitive, quality-competitive, and available in a timely fashion.

SEC. 8046. None of the funds appropriated by this Act shall be available for a contract for studies, analysis, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines—

(1) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work;

(2) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source; or

(3) the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support: *Provided*, That this limitation shall not apply to contracts in an amount of less than \$25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 8047. (a) Except as provided in subsection (b) and (c), none of the funds made available by this Act may be used—

(1) to establish a field operating agency; or  
(2) to pay the basic pay of a member of the Armed Forces or civilian employee of the department who is transferred or reassigned from a headquarters activity if the member or employee's place of duty remains at the location of that headquarters.

(b) The Secretary of Defense or Secretary of a military department may waive the limitations in subsection (a), on a case-by-case basis, if the Secretary determines, and certifies to the Committees on Appropriations of the House of Representatives and Senate that the granting of the waiver will reduce the personnel requirements or the financial requirements of the department.

(c) This section does not apply to field operating agencies funded within the National Foreign Intelligence Program.

SEC. 8048. Notwithstanding section 303 of Public Law 96-487 or any other provision of law, the Secretary of the Navy is authorized to lease real and personal property at Naval Air Facility, Adak, Alaska, pursuant to 10 U.S.C. 2667(f), for commercial, industrial or other purposes: *Provided*, That notwithstanding any other provision of law, the Secretary of the Navy may remove hazardous materials from facilities, buildings, and structures at Adak, Alaska, and may demolish or otherwise dispose of such facilities, buildings, and structures.

#### (RESCISSIONS)

SEC. 8049. Of the funds appropriated in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts and programs in the specified amounts:

"Shipbuilding and Conversion, Navy, 2002/2006", \$55,000,000;

"Procurement of Ammunition, Army, 2003/2005", \$36,000,000;

"Other Procurement, Air Force, 2003/2005", \$5,000,000;

"Procurement, Defense-Wide, 2003/2005", \$48,000,000;

"Research and Development, Defense-Wide, 2003/2004", \$25,000,000;

"National Defense Sealift Fund", \$105,300,000.

SEC. 8050. None of the funds available in this Act may be used to reduce the authorized positions for military (civilian) technicians of the Army National Guard, the Air National Guard, Army Reserve and Air Force Reserve for the purpose of applying any administratively imposed civilian personnel ceiling, freeze, or reduction on military (civilian) technicians, unless such reductions are a direct result of a reduction in military force structure.

SEC. 8051. None of the funds appropriated or otherwise made available in this Act may be obligated or expended for assistance to the Democratic People's Republic of North Korea unless specifically appropriated for that purpose.

SEC. 8052. During the current fiscal year, funds appropriated in this Act are available to compensate members of the National Guard for duty performed pursuant to a plan submitted by a Governor of a State and approved by the Secretary of Defense under section 112 of title 32, United States Code: *Provided*, That during the performance of such duty, the members of the National Guard shall be under State command and control: *Provided further*, That such duty shall be treated as full-time National Guard duty for purposes of sections 12602(a)(2) and (b)(2) of title 10, United States Code.

SEC. 8053. Funds appropriated in this Act for operation and maintenance of the Military Departments, Combatant Commands and Defense Agencies shall be available for reimbursement of pay, allowances and other expenses which would otherwise be incurred against appropriations for the National Guard and Reserve when members of the National Guard and Reserve provide intelligence or counterintelligence support to Combatant Commands, Defense Agencies and Joint Intelligence Activities, including the activities and programs included within the National Foreign Intelligence Program (NFIP), the Joint Military Intelligence Program (JMIP), and the Tactical Intelligence and Related Activities (TIARA) aggregate: *Provided*, That nothing in this section authorizes deviation from established Reserve and National Guard personnel and training procedures.

SEC. 8054. During the current fiscal year, none of the funds appropriated in this Act may be used to reduce the civilian medical and medical support personnel assigned to

military treatment facilities below the September 30, 2003 level: *Provided*, That the Service Surgeons General may waive this section by certifying to the congressional defense committees that the beneficiary population is declining in some catchment areas and civilian strength reductions may be consistent with responsible resource stewardship and capitation-based budgeting.

SEC. 8055. (a) LIMITATION ON PENTAGON RENOVATION COSTS.—Not later than the date each year on which the President submits to Congress the budget under section 1105 of title 31, United States Code, the Secretary of Defense shall submit to Congress a certification that the total cost for the planning, design, construction, and installation of equipment for the renovation of wedges 2 through 5 of the Pentagon Reservation, cumulatively, will not exceed four times the total cost for the planning, design, construction, and installation of equipment for the renovation of wedge 1.

(b) ANNUAL ADJUSTMENT.—For purposes of applying the limitation in subsection (a), the Secretary shall adjust the cost for the renovation of wedge 1 by any increase or decrease in costs attributable to economic inflation, based on the most recent economic assumptions issued by the Office of Management and Budget for use in preparation of the budget of the United States under section 1104 of title 31, United States Code.

(c) EXCLUSION OF CERTAIN COSTS.—For purposes of calculating the limitation in subsection (a), the total cost for wedges 2 through 5 shall not include—

(1) any repair or reconstruction cost incurred as a result of the terrorist attack on the Pentagon that occurred on September 11, 2001;

(2) any increase in costs for wedges 2 through 5 attributable to compliance with new requirements of Federal, State, or local laws; and

(3) any increase in costs attributable to additional security requirements that the Secretary of Defense considers essential to provide a safe and secure working environment.

(d) CERTIFICATION COST REPORTS.—As part of the annual certification under subsection (a), the Secretary shall report the projected cost (as of the time of the certification) for—

(1) the renovation of each wedge, including the amount adjusted or otherwise excluded for such wedge under the authority of paragraphs (2) and (3) of subsection (c) for the period covered by the certification; and

(2) the repair and reconstruction of wedges 1 and 2 in response to the terrorist attack on the Pentagon that occurred on September 11, 2001.

(e) DURATION OF CERTIFICATION REQUIREMENT.—The requirement to make an annual certification under subsection (a) shall apply until the Secretary certifies to Congress that the renovation of the Pentagon Reservation is completed.

SEC. 8056. Notwithstanding any other provision of law, that not more than 35 percent of funds provided in this Act for environmental remediation may be obligated under indefinite delivery/indefinite quantity contracts with a total contract value of \$130,000,000 or higher.

SEC. 8057. (a) None of the funds available to the Department of Defense for any fiscal year for drug interdiction or counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

(b) None of the funds available to the Central Intelligence Agency for any fiscal year for drug interdiction and counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

## (TRANSFER OF FUNDS)

SEC. 8058. Appropriations available in this Act under the heading "Operation and Maintenance, Defense-Wide" for increasing energy and water efficiency in Federal buildings may, during their period of availability, be transferred to other appropriations or funds of the Department of Defense for projects related to increasing energy and water efficiency, to be merged with and to be available for the same general purposes, and for the same time period, as the appropriation or fund to which transferred.

SEC. 8059. None of the funds appropriated by this Act may be used for the procurement of ball and roller bearings other than those produced by a domestic source and of domestic origin: *Provided*, That the Secretary of the military department responsible for such procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate, that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: *Provided further*, That this restriction shall not apply to the purchase of "commercial items", as defined by section 4(12) of the Office of Federal Procurement Policy Act, except that the restriction shall apply to ball or roller bearings purchased as end items.

SEC. 8060. Notwithstanding any other provision of law, funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to American Samoa, and funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to the Indian Health Service when it is in conjunction with a civil-military project.

SEC. 8061. None of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the congressional defense committees that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

SEC. 8062. Notwithstanding any other provision of law, the Naval shipyards of the United States shall be eligible to participate in any manufacturing extension program financed by funds appropriated in this or any other Act or hereafter in any other Act.

SEC. 8063. Notwithstanding any other provision of law, each contract awarded by the Department of Defense during the current fiscal year for construction or service performed in whole or in part in a State (as defined in section 381(d) of title 10, United States Code) which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor, shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: *Provided*, That the Secretary of Defense may waive the requirements of this section, on a case-by-case basis, in the interest of national security.

SEC. 8064. None of the funds made available in this or any other Act may be used to pay the salary of any officer or employee of the

Department of Defense who approves or implements the transfer of administrative responsibilities or budgetary resources of any program, project, or activity financed by this Act to the jurisdiction of another Federal agency not financed by this Act without the express authorization of Congress: *Provided*, That this limitation shall not apply to transfers of funds expressly provided for in Defense Appropriations Acts, or provisions of Acts providing supplemental appropriations for the Department of Defense.

SEC. 8065. (a) LIMITATION ON TRANSFER OF DEFENSE ARTICLES AND SERVICES.—Notwithstanding any other provision of law, none of the funds available to the Department of Defense for the current fiscal year may be obligated or expended to transfer to another nation or an international organization any defense articles or services (other than intelligence services) for use in the activities described in subsection (b) unless the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate are notified 15 days in advance of such transfer.

(b) COVERED ACTIVITIES.—This section applies to—

(1) any international peacekeeping or peace-enforcement operation under the authority of chapter VI or chapter VII of the United Nations Charter under the authority of a United Nations Security Council resolution; and

(2) any other international peacekeeping, peace-enforcement, or humanitarian assistance operation.

(c) REQUIRED NOTICE.—A notice under subsection (a) shall include the following:

(1) A description of the equipment, supplies, or services to be transferred.

(2) A statement of the value of the equipment, supplies, or services to be transferred.

(3) In the case of a proposed transfer of equipment or supplies—

(A) a statement of whether the inventory requirements of all elements of the Armed Forces (including the reserve components) for the type of equipment or supplies to be transferred have been met; and

(B) a statement of whether the items proposed to be transferred will have to be replaced and, if so, how the President proposes to provide funds for such replacement.

SEC. 8066. To the extent authorized by subchapter VI of chapter 148 of title 10, United States Code, the Secretary of Defense may issue loan guarantees in support of United States defense exports not otherwise provided for: *Provided*, That the total contingent liability of the United States for guarantees issued under the authority of this section may not exceed \$15,000,000,000: *Provided further*, That the exposure fees charged and collected by the Secretary for each guarantee shall be paid by the country involved and shall not be financed as part of a loan guaranteed by the United States: *Provided further*, That the Secretary shall provide quarterly reports to the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate and the Committees on Appropriations, Armed Services, and International Relations in the House of Representatives on the implementation of this program: *Provided further*, That amounts charged for administrative fees and deposited to the special account provided for under section 2540(c) of title 10, shall be available for paying the costs of administrative expenses of the Department of Defense that are attributable to the loan guarantee program under subchapter VI of chapter 148 of title 10, United States Code.

SEC. 8067. None of the funds available to the Department of Defense under this Act shall be obligated or expended to pay a con-

tractor under a contract with the Department of Defense for costs of any amount paid by the contractor to an employee when—

(1) such costs are for a bonus or otherwise in excess of the normal salary paid by the contractor to the employee; and

(2) such bonus is part of restructuring costs associated with a business combination.

SEC. 8068. (a) None of the funds appropriated or otherwise made available in this Act may be used to transport or provide for the transportation of chemical munitions or agents to the Johnston Atoll for the purpose of storing or demilitarizing such munitions or agents.

(b) The prohibition in subsection (a) shall not apply to any obsolete World War II chemical munition or agent of the United States found in the World War II Pacific Theater of Operations.

(c) The President may suspend the application of subsection (a) during a period of war in which the United States is a party.

## (INCLUDING TRANSFER OF FUNDS)

SEC. 8069. During the current fiscal year, no more than \$30,000,000 of appropriations made in this Act under the heading "Operation and Maintenance, Defense-Wide" may be transferred to appropriations available for the pay of military personnel, to be merged with, and to be available for the same time period as the appropriations to which transferred, to be used in support of such personnel in connection with support and services for eligible organizations and activities outside the Department of Defense pursuant to section 2012 of title 10, United States Code.

SEC. 8070. During the current fiscal year, in the case of an appropriation account of the Department of Defense for which the period of availability for obligation has expired or which has closed under the provisions of section 1552 of title 31, United States Code, and which has a negative unliquidated or unexpended balance, an obligation or an adjustment of an obligation may be charged to any current appropriation account for the same purpose as the expired or closed account if—

(1) the obligation would have been properly chargeable (except as to amount) to the expired or closed account before the end of the period of availability or closing of that account;

(2) the obligation is not otherwise properly chargeable to any current appropriation account of the Department of Defense; and

(3) in the case of an expired account, the obligation is not chargeable to a current appropriation of the Department of Defense under the provisions of section 1405(b)(8) of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101-510, as amended (31 U.S.C. 1551 note): *Provided*, That in the case of an expired account, if subsequent review or investigation discloses that there was not in fact a negative unliquidated or unexpended balance in the account, any charge to a current account under the authority of this section shall be reversed and recorded against the expired account: *Provided further*, That the total amount charged to a current appropriation under this section may not exceed an amount equal to 1 percent of the total appropriation for that account.

SEC. 8071. Funds appropriated in title II of this Act and for the Defense Health Program in title VI of this Act for supervision and administration costs for facilities maintenance and repair, minor construction, or design projects, or any planning studies, environmental assessments, or similar activities related to installation support functions, may be obligated at the time the reimbursable order is accepted by the performing activity: *Provided*, That for the purpose of this section, supervision and administration costs includes all in-house Government cost.

SEC. 8072. (a) Notwithstanding any other provision of law, the Chief of the National Guard Bureau may permit the use of equipment of the National Guard Distance Learning Project by any person or entity on a space-available, reimbursable basis. The Chief of the National Guard Bureau shall establish the amount of reimbursement for such use on a case-by-case basis.

(b) Amounts collected under subsection (a) shall be credited to funds available for the National Guard Distance Learning Project and be available to defray the costs associated with the use of equipment of the project under that subsection. Such funds shall be available for such purposes without fiscal year limitation.

SEC. 8073. Using funds available by this Act or any other Act, the Secretary of the Air Force, pursuant to a determination under section 2690 of title 10, United States Code, may implement cost-effective agreements for required heating facility modernization in the Kaiserslautern Military Community in the Federal Republic of Germany: *Provided*, That in the City of Kaiserslautern such agreements will include the use of United States anthracite as the base load energy for municipal district heat to the United States Defense installations: *Provided further*, That at Landstuhl Army Regional Medical Center and Ramstein Air Base, furnished heat may be obtained from private, regional or municipal services, if provisions are included for the consideration of United States coal as an energy source.

SEC. 8074. None of the funds appropriated in title IV of this Act may be used to procure end-items for delivery to military forces for operational training, operational use or inventory requirements: *Provided*, That this restriction does not apply to end-items used in development, prototyping, and test activities preceding and leading to acceptance for operational use: *Provided further*, That this restriction does not apply to programs funded within the National Foreign Intelligence Program: *Provided further*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

SEC. 8075. None of the funds made available in this Act may be used to approve or license the sale of the F-22 advanced tactical fighter to any foreign government.

SEC. 8076. (a) The Secretary of Defense may, on a case-by-case basis, waive with respect to a foreign country each limitation on the procurement of defense items from foreign sources provided in law if the Secretary determines that the application of the limitation with respect to that country would invalidate cooperative programs entered into between the Department of Defense and the foreign country, or would invalidate reciprocal trade agreements for the procurement of defense items entered into under section 2531 of title 10, United States Code, and the country does not discriminate against the same or similar defense items produced in the United States for that country.

(b) Subsection (a) applies with respect to—  
(1) contracts and subcontracts entered into on or after the date of the enactment of this Act; and

(2) options for the procurement of items that are exercised after such date under contracts that are entered into before such date if the option prices are adjusted for any reason other than the application of a waiver granted under subsection (a).

(c) Subsection (a) does not apply to a limitation regarding construction of public vessels, ball and roller bearings, food, and clothing or textile materials as defined by section

11 (chapters 50–65) of the Harmonized Tariff Schedule and products classified under headings 4010, 4202, 4203, 6401 through 6406, 6505, 7019, 7218 through 7229, 7304.41 through 7304.49, 7306.40, 7502 through 7508, 8105, 8108, 8109, 8211, 8215, and 9404.

SEC. 8077. (a) PROHIBITION.—None of the funds made available by this Act may be used to support any training program involving a unit of the security forces of a foreign country if the Secretary of Defense has received credible information from the Department of State that the unit has committed a gross violation of human rights, unless all necessary corrective steps have been taken.

(b) MONITORING.—The Secretary of Defense, in consultation with the Secretary of State, shall ensure that prior to a decision to conduct any training program referred to in subsection (a), full consideration is given to all credible information available to the Department of State relating to human rights violations by foreign security forces.

(c) WAIVER.—The Secretary of Defense, after consultation with the Secretary of State, may waive the prohibition in subsection (a) if he determines that such waiver is required by extraordinary circumstances.

(d) REPORT.—Not more than 15 days after the exercise of any waiver under subsection (c), the Secretary of Defense shall submit a report to the congressional defense committees describing the extraordinary circumstances, the purpose and duration of the training program, the United States forces and the foreign security forces involved in the training program, and the information relating to human rights violations that necessitates the waiver.

SEC. 8078. The Secretary of Defense, in coordination with the Secretary of Health and Human Services, may carry out a program to distribute surplus dental equipment of the Department of Defense, at no cost to the Department of Defense, to Indian Health Service facilities and to federally-qualified health centers (within the meaning of section 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1396d(l)(2)(B))).

SEC. 8079. None of the funds appropriated or made available in this Act to the Department of the Navy shall be used to develop, lease or procure the T-AKE class of ships unless the main propulsion diesel engines and propulsors are manufactured in the United States by a domestically operated entity: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes or there exists a significant cost or quality difference.

SEC. 8080. None of the funds appropriated or otherwise made available by this or other Department of Defense Appropriations Acts may be obligated or expended for the purpose of performing repairs or maintenance to military family housing units of the Department of Defense, including areas in such military family housing units that may be used for the purpose of conducting official Department of Defense business.

SEC. 8081. Notwithstanding any other provision of law, funds appropriated in this Act under the heading "Research, Development, Test and Evaluation, Defense-Wide" for any advanced concept technology demonstration project may only be obligated 30 days after a report, including a description of the project, the planned acquisition and transition strategy and its estimated annual and total cost, has been provided in writing to the congressional defense committees: *Provided*, That

the Secretary of Defense may waive this restriction on a case-by-case basis by certifying to the congressional defense committees that it is in the national interest to do so.

SEC. 8082. (a) LIMITATION ON AVAILABILITY OF FUNDS FOR OFFICE OF UNDER SECRETARY OF DEFENSE FOR INTELLIGENCE.—No funds appropriated or otherwise made available by this Act for the Office of the Under Secretary of Defense for Intelligence may be obligated or expended until 30 days after the date on which the report referred to in subsection (c) is submitted to Congress.

(b) LIMITATION ON AVAILABILITY OF FUNDS FOR CLANDESTINE MILITARY ACTIVITIES.—No funds appropriated or otherwise made available by this Act may be obligated or expended for clandestine military activities until the date on which the report referred to in subsection (c) is submitted to Congress.

(c) REPORT.—The report referred to in this subsection is the report required to be submitted to Congress in the classified annex to the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108-11).

SEC. 8083. During the current fiscal year, refunds attributable to the use of the Government travel card, refunds attributable to the use of the Government Purchase Card and refunds attributable to official Government travel arranged by Government Contracted Travel Management Centers may be credited to operation and maintenance accounts of the Department of Defense which are current when the refunds are received.

SEC. 8084. (a) REGISTERING FINANCIAL MANAGEMENT INFORMATION TECHNOLOGY SYSTEMS WITH DOD CHIEF INFORMATION OFFICER.—None of the funds appropriated in this Act may be used for a mission critical or mission essential financial management information technology system (including a system funded by the defense working capital fund) that is not registered with the Chief Information Officer of the Department of Defense. A system shall be considered to be registered with that officer upon the furnishing to that officer of notice of the system, together with such information concerning the system as the Secretary of Defense may prescribe. A financial management information technology system shall be considered a mission critical or mission essential information technology system as defined by the Under Secretary of Defense (Comptroller).

(b) CERTIFICATIONS AS TO COMPLIANCE WITH FINANCIAL MANAGEMENT MODERNIZATION PLAN.—

(1) During the current fiscal year, a financial management automated information system, a mixed information system supporting financial and non-financial systems, or a system improvement of more than \$1,000,000 may not receive Milestone A approval, Milestone B approval, or full rate production, or their equivalent, within the Department of Defense until the Under Secretary of Defense (Comptroller) certifies, with respect to that milestone, that the system is being developed and managed in accordance with the Department's Financial Management Modernization Plan. The Under Secretary of Defense (Comptroller) may require additional certifications, as appropriate, with respect to any such system.

(2) The Chief Information Officer shall provide the congressional defense committees timely notification of certifications under paragraph (1).

(c) CERTIFICATIONS AS TO COMPLIANCE WITH CLINGER-COHEN ACT.—(1) During the current fiscal year, a major automated information system may not receive Milestone A approval, Milestone B approval, or full rate production approval, or their equivalent, within the Department of Defense until the Chief Information Officer certifies, with respect to that milestone, that the system is

being developed in accordance with the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.). The Chief Information Officer may require additional certifications, as appropriate, with respect to any such system.

(2) The Chief Information Officer shall provide the congressional defense committees timely notification of certifications under paragraph (1). Each such notification shall include, at a minimum, the funding baseline and milestone schedule for each system covered by such a certification and confirmation that the following steps have been taken with respect to the system:

- (A) Business process reengineering.
- (B) An analysis of alternatives.
- (C) An economic analysis that includes a calculation of the return on investment.
- (D) Performance measures.
- (E) An information assurance strategy consistent with the Department's Global Information Grid.

(d) DEFINITIONS.—For purposes of this section:

(1) The term "Chief Information Officer" means the senior official of the Department of Defense designated by the Secretary of Defense pursuant to section 3506 of title 44, United States Code.

(2) The term "information technology system" has the meaning given the term "information technology" in section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401).

SEC. 8085. During the current fiscal year, none of the funds available to the Department of Defense may be used to provide support to another department or agency of the United States if such department or agency is more than 90 days in arrears in making payment to the Department of Defense for goods or services previously provided to such department or agency on a reimbursable basis: *Provided*, That this restriction shall not apply if the department is authorized by law to provide support to such department or agency on a nonreimbursable basis, and is providing the requested support pursuant to such authority: *Provided further*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

SEC. 8086. None of the funds provided in this Act may be used to transfer to any non-governmental entity ammunition held by the Department of Defense that has a center-fire cartridge and a United States military nomenclature designation of "armor penetrator", "armor piercing (AP)", "armor piercing incendiary (API)", or "armor-piercing incendiary-tracer (API-T)", except to an entity performing demilitarization services for the Department of Defense under a contract that requires the entity to demonstrate to the satisfaction of the Department of Defense that armor piercing projectiles are either: (1) rendered incapable of reuse by the demilitarization process; or (2) used to manufacture ammunition pursuant to a contract with the Department of Defense or the manufacture of ammunition for export pursuant to a License for Permanent Export of Unclassified Military Articles issued by the Department of State.

SEC. 8087. Notwithstanding any other provision of law, the Chief of the National Guard Bureau, or his designee, may waive payment of all or part of the consideration that otherwise would be required under 10 U.S.C. 2667, in the case of a lease of personal property for a period not in excess of 1 year to any organization specified in 32 U.S.C. 508(d), or any other youth, social, or fraternal non-profit organization as may be approved by the Chief of the National Guard Bureau, or his designee, on a case-by-case basis.

SEC. 8088. None of the funds appropriated by this Act shall be used for the support of any nonappropriated funds activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States unless such malt beverages and wine are procured within that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: *Provided*, That in a case in which the military installation is located in more than one State, purchases may be made in any State in which the installation is located: *Provided further*, That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages only for military installations in States which are not contiguous with another State: *Provided further*, That alcoholic beverages other than wine and malt beverages, in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

SEC. 8089. (a) The Department of Defense is authorized to enter into agreements with the Department of Veterans Affairs and federally-funded health agencies providing services to Native Hawaiians for the purpose of establishing a partnership similar to the Alaska Federal Health Care Partnership, in order to maximize Federal resources in the provision of health care services by federally-funded health agencies, applying telemedicine technologies. For the purpose of this partnership, Native Hawaiians shall have the same status as other Native Americans who are eligible for the health care services provided by the Indian Health Service.

(b) The Department of Defense is authorized to develop a consultation policy, consistent with Executive Order No. 13084 (issued May 14, 1998), with Native Hawaiians for the purpose of assuring maximum Native Hawaiian participation in the direction and administration of governmental services so as to render those services more responsive to the needs of the Native Hawaiian community.

(c) For purposes of this section, the term "Native Hawaiian" means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawaii.

SEC. 8090. Funds available to the Department of Defense for the Global Positioning System during the current fiscal year may be used to fund civil requirements associated with the satellite and ground control segments of such system's modernization program.

#### (INCLUDING TRANSFER OF FUNDS)

SEC. 8091. (a) Of the amounts appropriated in this Act under the heading, "Research, Development, Test and Evaluation, Defense-Wide", \$48,000,000 shall remain available until expended: *Provided*, That notwithstanding any other provision of law, the Secretary of Defense is authorized to transfer such funds to other activities of the Federal Government.

(b) Of the amounts appropriated in this Act under the heading, "Operation and Maintenance, Army", \$177,000,000 shall remain available until expended: *Provided*, That notwithstanding any other provision of law, the Secretary of Defense is authorized to transfer such funds to other activities of the Federal Government: *Provided further*, That the Secretary of Defense is authorized to enter into and carry out contracts for the acquisition of real property, construction, personal

services, and operations related to projects described in further detail in the Classified Annex accompanying the Department of Defense Appropriations Act, 2004, consistent with the terms and conditions set forth herein: *Provided further*, That contracts entered into under the authority of this section may provide for such indemnification as the Secretary determines to be necessary: *Provided further*, That projects authorized by this section shall comply with applicable Federal, State, and local law to the maximum extent consistent with the national security, as determined by the Secretary of Defense.

SEC. 8092. Section 8106 of the Department of Defense Appropriations Act, 1997 (titles I through VIII of the matter under subsection 101(b) of Public Law 104-208; 110 Stat. 3009-111; 10 U.S.C. 113 note) shall continue in effect to apply to disbursements that are made by the Department of Defense in fiscal year 2004.

#### (INCLUDING TRANSFER OF FUNDS)

SEC. 8093. Of the amounts appropriated in this Act under the heading "Research, Development, Test and Evaluation, Defense-Wide", \$154,800,000 shall be made available for the Arrow missile defense program: *Provided*, That of this amount, \$10,000,000 shall be available for the purpose of continuing the Arrow System Improvement Program (ASIP), and \$80,000,000 shall be available for the purpose of producing Arrow missile components in the United States and Arrow missile components and missiles in Israel to meet Israel's defense requirements, consistent with each nation's laws, regulations and procedures: *Provided further*, That funds made available under this provision for production of missiles and missile components may be transferred to appropriations available for the procurement of weapons and equipment, to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred: *Provided further*, That the transfer authority provided under this provision is in addition to any other transfer authority contained in this Act.

SEC. 8094. In addition to amounts provided in this Act, \$90,000,000 is hereby appropriated for "Aircraft Procurement, Navy": *Provided*, That these funds shall be available only for transfer to the Coast Guard for mission-essential equipment for Coast Guard HC-130J aircraft.

#### (INCLUDING TRANSFER OF FUNDS)

SEC. 8095. Of the amounts appropriated in this Act under the heading "Shipbuilding and Conversion, Navy", \$635,502,000 shall be available until September 30, 2004, to fund prior year shipbuilding cost increases: *Provided*, That upon enactment of this Act, the Secretary of Navy shall transfer such funds to the following appropriations in the amount specified: *Provided further*, That the amounts transferred shall be merged with and be available for the same purposes as the appropriations to which transferred:

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1996/04":

LPD-17 Amphibious Transport Dock Ship Program, \$95,300,000.

Under the heading, "Shipbuilding and Conversion, Navy, 1998/04":

New SSN, \$81,060,000.

Under the heading, "Shipbuilding and Conversion, Navy, 1999/04":

DDG-51 Destroyer Program, \$44,420,000;

New SSN, \$156,978,000;

LPD-17 Amphibious Transport Dock Ship Program, \$51,100,000.

Under the heading, "Shipbuilding and Conversion, Navy, 2000/04":

DDG-51 Destroyer Program, \$24,510,000;

LPD-17 Amphibious Transport Dock Ship Program, \$112,778,000.

Under the heading, "Shipbuilding and Conversion, Navy, 2001/04":

DDG-51 Destroyer Program, \$6,984,000;  
New SSN, \$62,372,000.

SEC. 8096. The Secretary of the Navy may settle, or compromise, and pay any and all admiralty claims under 10 U.S.C. 7622 arising out of the collision involving the U.S.S. GREENEVILLE and the EHIME MARU, in any amount and without regard to the monetary limitations in subsections (a) and (b) of that section: *Provided*, That such payments shall be made from funds available to the Department of the Navy for operation and maintenance.

SEC. 8097. Notwithstanding any other provision of law or regulation, the Secretary of Defense may exercise the provisions of 38 U.S.C. 7403(g) for occupations listed in 38 U.S.C. 7403(a)(2) as well as the following:

Pharmacists, Audiologists, and Dental Hygienists.

(A) The requirements of 38 U.S.C. 7403(g)(1)(A) shall apply.

(B) The limitations of 38 U.S.C. 7403(g)(1)(B) shall not apply.

SEC. 8098. Funds appropriated by this Act, or made available by transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2004 until the enactment of the Intelligence Authorization Act for fiscal year 2004.

SEC. 8099. In addition to funds made available elsewhere in this Act \$5,500,000 is hereby appropriated and shall remain available until expended to provide assistance, by grant or otherwise (such as, but not limited to, the provision of funds for repairs, maintenance, construction, and/or for the purchase of information technology, text books, teaching resources), to public schools that have unusually high concentrations of special needs military dependents enrolled: *Provided*, That in selecting school systems to receive such assistance, special consideration shall be given to school systems in States that are considered overseas assignments, and all schools within these school systems shall be eligible for assistance: *Provided further*, That up to \$2,000,000 shall be available for the Department of Defense to establish a non-profit trust fund to assist in the public-private funding of public school repair and maintenance projects, or provide directly to non-profit organizations who in return will use these monies to provide assistance in the form of repair, maintenance, or renovation to public school systems that have high concentrations of special needs military dependents and are located in States that are considered overseas assignments, and of which 2 percent shall be available to support the administration and execution of the funds: *Provided further*, That to the extent a federal agency provides this assistance, by contract, grant, or otherwise, it may accept and expend non-federal funds in combination with these federal funds to provide assistance for the authorized purpose, if the non-federal entity requests such assistance and the non-federal funds are provided on a reimbursable basis.

SEC. 8100. None of the funds in this Act may be used to initiate a new start program without prior notification to the Office of Secretary of Defense and the congressional defense committees.

SEC. 8101. Of the funds made available in this Act, not less than \$56,400,000 shall be available to maintain an attrition reserve force of 18 B-52 aircraft, of which \$3,800,000 shall be available from "Military Personnel, Air Force", \$35,900,000 shall be available from "Operation and Maintenance, Air Force", and \$16,700,000 shall be available from "Air-

craft Procurement, Air Force": *Provided*, That the Secretary of the Air Force shall maintain a total force of 94 B-52 aircraft, including 18 attrition reserve aircraft, during fiscal year 2004: *Provided further*, That the Secretary of Defense shall include in the Air Force budget request for fiscal year 2005 amounts sufficient to maintain a B-52 force totaling 94 aircraft.

SEC. 8102. As an interim capability to enhance Army lethality, survivability, and mobility for light and medium forces before complete fielding of the Objective Force, the Army shall ensure that budgetary and programmatic plans will provide for no fewer than six Stryker Brigade Combat Teams to be fielded between 2003 and 2008.

SEC. 8103. Of the funds made available under the heading "Operation and Maintenance, Air Force", \$8,000,000 shall be available to realign railroad track on Elmendorf Air Force Base and Fort Richardson.

#### (TRANSFER OF FUNDS)

SEC. 8104. Of the amounts appropriated in Public Law 107-206 under the heading "Defense Emergency Response Fund", an amount up to the fair market value of the leasehold interest in adjacent properties necessary for the force protection requirements of Tooele Army Depot, Utah, may be made available to resolve any property disputes associated with Tooele Army Depot, Utah, and to acquire such leasehold interest as required: *Provided*, That none of these funds may be used to acquire fee title to the properties.

SEC. 8105. Up to \$3,000,000 of the funds appropriated under the heading "Operation and Maintenance, Navy" in this Act for the Pacific Missile Range Facility may be made available to contract for the repair, maintenance, and operation of adjacent off-base water, drainage, and flood control systems, electrical upgrade to support additional missions critical to base operations, and support for a range footprint expansion to further guard against encroachment.

#### (TRANSFER OF FUNDS)

SEC. 8106. In addition to the amounts appropriated or otherwise made available in this Act, \$24,000,000, to remain available until September 30, 2004, is hereby appropriated to the Department of Defense: *Provided*, That the Secretary of Defense shall make grants in the amount of \$5,000,000 to the American Red Cross for Armed Forces Emergency Services; \$10,000,000 for the Fort Benning Infantry Museum; \$2,500,000 to the National Guard Youth Foundation; \$3,000,000 to the Chicago Park District for renovation of the Broadway Armory; and \$3,500,000 to the National D-Day Museum.

SEC. 8107. None of the funds appropriated in this Act under the heading "Overseas Contingency Operations Transfer Account" may be transferred or obligated for Department of Defense expenses not directly related to the conduct of overseas contingencies: *Provided*, That the Secretary of Defense shall submit a report no later than 30 days after the end of each fiscal quarter to the Committees on Appropriations of the Senate and House of Representatives that details any transfer of funds from the "Overseas Contingency Operations Transfer Fund": *Provided further*, That the report shall explain any transfer for the maintenance of real property, pay of civilian personnel, base operations support, and weapon, vehicle or equipment maintenance.

SEC. 8108. For purposes of section 1553(b) of title 31, United States Code, any subdivision of appropriations made in this Act under the heading "Shipbuilding and Conversion, Navy" shall be considered to be for the same purpose as any subdivision under the heading "Shipbuilding and Conversion, Navy" appropriations in any prior year, and the 1 percent

limitation shall apply to the total amount of the appropriation.

SEC. 8109. The budget of the President for fiscal year 2005 submitted to the Congress pursuant to section 1105 of title 31, United States Code, and each annual budget request thereafter, shall include separate budget justification documents for costs of United States Armed Forces' participation in contingency operations for the Military Personnel accounts, the Overseas Contingency Operations Transfer Account, the Operation and Maintenance accounts, and the Procurement accounts: *Provided*, That these budget justification documents shall include a description of the funding requested for each anticipated contingency operation, for each military service, to include active duty and Guard and Reserve components, and for each appropriation account: *Provided further*, That these documents shall include estimated costs for each element of expense or object class, a reconciliation of increases and decreases for ongoing contingency operations, and programmatic data including, but not limited to troop strength for each active duty and Guard and Reserve component, and estimates of the major weapons systems deployed in support of each contingency: *Provided further*, That these documents shall include budget exhibits OP-5 and OP-32, as defined in the Department of Defense Financial Management Regulation, for the Overseas Contingency Operations Transfer Account for fiscal years 2003 and 2004.

SEC. 8110. None of the funds in this Act may be used for research, development, test, evaluation, procurement or deployment of nuclear armed interceptors of a missile defense system.

SEC. 8111. Of the amounts appropriated in this Act under the headings "Research, Development, Test and Evaluation, Navy" and "Operation and Maintenance, Defense-Wide" \$65,200,000 shall be transferred to such appropriations available to the Department of Defense as may be required to carry out the intent of Congress as expressed in the Classified Annex accompanying the Department of Defense Appropriations Act, 2004, and amounts so transferred shall be available for the same purposes and for the same time period as the appropriations to which transferred.

SEC. 8112. During the current fiscal year, section 2533a(f) of Title 10, United States Code, shall not apply to any fish, shellfish, or seafood product. This section is applicable to contracts and subcontracts for the procurement of commercial items notwithstanding section 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 430).

SEC. 8113. Notwithstanding section 2465 of title 10 U.S.C., the Secretary of the Navy may use funds appropriated in title II of this Act under the heading, "Operation and Maintenance, Navy", to liquidate the expenses incurred for private security guard services performed at the Naval Support Unit, Saratoga Springs, New York by Burns International Security Services, Albany, New York in the amount of \$29,323.35, plus accrued interest, if any.

SEC. 8114. Funds available to the Department of Defense under the heading, "Research, Development, Test and Evaluation, Defense-Wide", may be used to develop and field an initial set of missile defense capabilities, and such fielding shall be considered to be system development and demonstration for purposes of any law governing the development and production of a major defense acquisition program. The initial set of missile defense capabilities is defined as the "Block 04" Ballistic Missile Defense system funded in fiscal years 2004 and 2005. Subsequent blocks of missile defense capabilities shall be subject to existing laws governing

development and production of major defense acquisition programs.

SEC. 8115. Of the amounts provided in title II of this Act under the heading, "Operation and Maintenance, Defense-Wide", \$20,000,000 is available for the Regional Defense Counter-terrorism Fellowship Program, to fund the education and training of foreign military officers, ministry of defense civilians, and other foreign security officials, to include United States military officers and civilian officials whose participation directly contributes to the education and training of these foreign students.

SEC. 8116. Up to \$2,000,000 of the funds appropriated by this Act under the heading, "Operation and Maintenance, Army", may be made available to contract for services required to solicit non-Federal donations to support construction and operation of the United States Army Museum at Fort Belvoir, Virginia: *Provided*, That notwithstanding any other provision of law, the Army is authorized to receive future payments in this or the subsequent fiscal year from any non-profit organization chartered to support the United States Army Museum to reimburse amounts expended by the Army pursuant to this section: *Provided further*, That any reimbursements received pursuant to this section shall be merged with "Operation and Maintenance, Army" and shall be made available for the same purposes and for the same time period as that appropriation account.

SEC. 8117. DESIGNATION OF AMERICA'S NATIONAL WORLD WAR II MUSEUM. (a) FINDINGS.—Congress makes the following findings:

(1) The National D-Day Museum, operated in New Orleans, Louisiana by an educational foundation, has been established with the vision "to celebrate the American Spirit".

(2) The National D-Day Museum is the only museum in the United States that exists for the exclusive purpose of interpreting the American experience during the World War II years (1939–1945) on both the battlefield and the home front and, in doing so, covers all of the branches of the Armed Forces and the Merchant Marine.

(3) The National D-Day Museum was founded by the preeminent American historian, Stephen E. Ambrose, as a result of a conversation with President Dwight D. Eisenhower in 1963, when the President and former Supreme Commander, Allied Expeditionary Forces in Europe, credited Andrew Jackson Higgins, the chief executive officer of Higgins Industries in New Orleans, as the "man who won the war for us" because the 12,000 landing craft designed by Higgins Industries made possible all of the amphibious invasions of World War II and carried American soldiers into every theatre of the war.

(4) The National D-Day Museum, since its grand opening on June 6, 2000, the 56th anniversary of the D-Day invasion of Normandy, has attracted nearly 1,000,000 visitors from around the world, 85 percent of whom have been Americans from across the country.

(5) American World War II veterans, called the "greatest generation" of the Nation, are dying at the rapid rate of more than 1,200 veterans each day, creating an urgent need to preserve the stories, artifacts, and heroic achievements of that generation.

(6) The United States has a need to preserve forever the knowledge and history of the Nation's most decisive achievement in the 20th century and to portray that history to citizens, visitors, and school children for centuries to come.

(7) Congress, recognizing the need to preserve this knowledge and history, appropriated funds in 1992 to authorize the design and construction of The National D-Day Museum in New Orleans to commemorate the

epic 1944 Normandy invasion, and subsequently appropriated additional funds in 1998, 2000, 2001, 2002, and 2003 to help expand the exhibits in the museum to include the D-Day invasions in the Pacific Theatre of Operations and the other campaigns of World War II.

(8) The State of Louisiana and thousands of donors and foundations across the country have contributed millions of dollars to help build this national institution.

(9) The Board of Trustees of The National D-Day Museum is national in scope and diverse in its makeup.

(10) The World War II Memorial now under construction on the National Mall in Washington, the District of Columbia, will always be the memorial in our Nation where people come to remember America's sacrifices in World War II, while The National D-Day Museum will always be the museum of the American experience in the World War II years (1939–1945), where people come to learn about Americans' experiences during that critical period, as well as a place where the history of our Nation's monumental struggle against worldwide aggression by would-be oppressors is preserved so that future generations can understand the role the United States played in the preservation and advancement of democracy and freedom in the middle of the 20th century.

(11) The National D-Day Museum seeks to educate a diverse group of audiences through its collection of artifacts, photographs, letters, documents, and first-hand personal accounts of the participants in the war and on the home front during one of history's darkest hours.

(12) The National D-Day Museum is devoted to the combat experience of United States citizen soldiers in all of the theatres of World War II and to the heroic efforts of the men and women on the home front who worked tirelessly to support the troops and the war effort.

(13) The National D-Day Museum continues to add to and maintain one of the largest personal history collections in the United States of the men and women who fought in World War II and who served on the home front.

(14) No other museum describes as well the volunteer spirit that arose throughout the United States and united the country during the World War II years.

(15) The National D-Day Museum is engaged in a 250,000 square foot expansion to include the Center for the Study of the American Spirit, an advanced format theatre, and a new United States pavilion.

(16) The planned "We're All in this Together" exhibit will describe the role every State, commonwealth, and territory played in World War II, and the computer database and software of The National D-Day Museum's educational program will be made available to the teachers and school children of every State, commonwealth, and territory.

(17) The National D-Day Museum is an official Smithsonian affiliate institution with a formal agreement to borrow Smithsonian artifacts for future exhibitions.

(18) Le Memorial de Caen in Normandy, France has formally recognized The National D-Day Museum as its official partner in a Patriotic Alliance signed on October 16, 2002, by both museums.

(19) The official Battle of the Bulge museums in Luxembourg and the American Battlefield Monuments Commission are already collaborating with The National D-Day Museum on World War II exhibitions.

(20) For all of these reasons, it is appropriate to designate The National D-Day Museum as "America's National World War II Museum".

(b) PURPOSES.—The purposes of this section are, through the designation of The National D-Day Museum as "America's National World War II Museum", to express the United States Government's support for—

(1) the continuing preservation, maintenance, and interpretation of the artifacts, documents, images, and history collected by the museum;

(2) the education of the American people as to the American experience in combat and on the home front during the World War II years, including the conduct of educational outreach programs for teachers and students throughout the United States;

(3) the operation of a premier facility for the public display of artifacts, photographs, letters, documents, and personal histories from the World War II years (1939–1945);

(4) the further expansion of the current European and Pacific campaign exhibits in the museum, including the Center for the Study of the American Spirit for education; and

(5) ensuring the understanding by all future generations of the magnitude of the American contribution to the Allied victory in World War II, the sacrifices made to preserve freedom and democracy, and the benefits of peace for all future generations in the 21st century and beyond.

(c) DESIGNATION OF "AMERICA'S NATIONAL WORLD WAR II MUSEUM".—The National D-Day Museum, New Orleans, Louisiana, is designated as "America's National World War II Museum".

SEC. 8118. NATIVE AMERICAN VETERAN HOUSING LOANS. (a) Title I of Division K of the Consolidated Appropriations Resolution, 2003 (Public Law 108-7) is amended by striking out "expenses: *Provided*, That no new loans in excess of \$5,000,000 may be made in fiscal year 2003." from the paragraph under the heading "Native American Veteran Housing Loan Program Account" and inserting in lieu thereof "expenses".

(b) The amendment made by subsection (a) of this section is effective on the date of the enactment of Public Law 108-7, February 20, 2003.

SEC. 8119. Of the funds made available in chapter 3 of title I of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108-11), under the heading "Iraq Freedom Fund", \$3,157,000,000 are hereby rescinded.

SEC. 8120. (a) LIMITATION ON USE OF FUNDS FOR RESEARCH AND DEVELOPMENT ON TERRORISM INFORMATION AWARENESS PROGRAM.—Notwithstanding any other provision of law, no funds appropriated or otherwise made available to the Department of Defense, whether to an element of the Defense Advanced Research Projects Agency or any other element, or to any other department, agency, or element of the Federal Government, may be obligated or expended on research and development on the Terrorism Information Awareness program.

(b) LIMITATION ON DEPLOYMENT OF TERRORISM INFORMATION AWARENESS PROGRAM.—(1) Notwithstanding any other provision of law, if and when research and development on the Terrorism Information Awareness program, or any component of such program, permits the deployment or implementation of such program or component, no department, agency, or element of the Federal Government may deploy or implement such program or component, or transfer such program or component to another department, agency, or element of the Federal Government, until the Secretary of Defense—

(A) notifies Congress of that development, including a specific and detailed description of—

(i) each element of such program or component intended to be deployed or implemented; and



(ii) the method and scope of the intended deployment or implementation of such program or component (including the data or information to be accessed or used); and

(B) has received specific authorization by law from Congress for the deployment or implementation of such program or component, including—

(i) a specific authorization by law for the deployment or implementation of such program or component; and

(ii) a specific appropriation by law of funds for the deployment or implementation of such program or component.

(2) The limitation in paragraph (1) shall not apply with respect to the deployment or implementation of the Terrorism Information Awareness program, or a component of such program, in support of the following:

(A) Lawful military operations of the United States conducted outside the United States.

(B) Lawful foreign intelligence activities conducted wholly against non-United States persons.

(c) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Terrorism Information Awareness program should not be used to develop technologies for use in conducting intelligence activities or law enforcement activities against United States persons without appropriate consultation with Congress or without clear adherence to principles to protect civil liberties and privacy; and

(2) the primary purpose of the Defense Advanced Research Projects Agency is to support the lawful activities of the Department of Defense and the national security programs conducted pursuant to the laws assembled for codification purposes in title 50, United States Code.

(d) DEFINITIONS.—In this section:

(1) TERRORISM INFORMATION AWARENESS PROGRAM.—The term “Terrorism Information Awareness program”—

(A) means the components of the program known either as Terrorism Information Awareness or Total Information Awareness, any related information awareness program, or any successor program under the Defense Advanced Research Projects Agency or another element of the Department of Defense; and

(B) includes a program referred to in subparagraph (1), or a component of such program, that has been transferred from the Defense Advanced Research Projects Agency or another element of the Department of Defense to any other department, agency, or element of the Federal Government.

(2) NON-UNITED STATES PERSON.—The term “non-United States person” means any person other than a United States person.

(3) UNITED STATES PERSON.—The term “United States person” has the meaning given that term in section 101(i) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(i)).

SEC. 8121. Notwithstanding any other provision in this Act, the total amount appropriated in this Act is hereby reduced by \$125,000,000 to limit excessive growth in the procurement of advisory and assistance services, to be distributed as follows:

“Operation and Maintenance, Defense-Wide”, \$45,000,000;

“Research, Development, Test and Evaluation, Navy”, \$40,000,000; and

“Research, Development, Test and Evaluation, Defense-Wide”, \$40,000,000;

Provided, That these reductions shall be applied proportionally to each budget activity, activity group and subactivity group and each program, project, and activity within each appropriation account.

SEC. 8122. None of the funds appropriated in this Act shall be used to study, demonstrate,

or implement any plans privatizing, divesting or transferring of any Civil Works missions, functions, or responsibilities for the United States Army Corps of Engineers to other government agencies without specific direction in a subsequent Act of Congress.

SEC. 8123. None of the funds provided in this Act may be used to pay any fee charged by the Department of State for the purpose of constructing new United States diplomatic facilities.

This Act may be cited as the “Department of Defense Appropriations Act, 2004”.

**SA 1218.** Mr. MILLER submitted an amendment intended to be proposed by him to the bill H.R. 2658, making appropriations for the Department of Defense for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table, as follows:

Insert after section 8123 the following:

SEC. 8124. Of the amount appropriated by title IV of this Act under the heading “RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY”, up to \$1,000,000 may be available for Combat Systems Integration (PE#0603582N) for the Trouble Reports Information Data Warehouse.

**SA 1219.** Ms. COLLINS (for herself and Ms. SNOWE) submitted an amendment intended to be proposed by her to the bill H.R. 2658, making appropriations for the Department of Defense for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table, as follows:

Insert after section 8123 the following:

SEC. 8124. Of the amount appropriated by title II of this Act under the heading “SHIPBUILDING AND CONVERSION, NAVY”, \$20,000,000 shall be available for DDG-51 modernization.

**SA 1220.** Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill H.R. 2658, making appropriations for the Department of Defense for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table, as follows:

On page 120, between lines 17 and 18, insert the following:

SEC. 8124. Of the total amount appropriated by title II under the heading “OPERATION AND MAINTENANCE, NAVY” for civilian manpower and personnel management, up to \$1,500,000 may be used for Navy Pilot Human Resources Call Center, Cutler, Maine.

**SA 1221.** Mr. INHOFE submitted an amendment intended to be proposed by him to the bill H.R. 2658, making appropriations for the Department of Defense for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table, as follows:

Insert after section 8123 the following:

SEC. 8124. Of the amount appropriated by title IV of this Act under the heading “RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE”, up to \$4,000,000 may be available for cost effective composite materials for manned and unmanned flight structures (PE#0602103F).

**SA 1222.** Mr. INHOFE submitted an amendment intended to be proposed by him to the bill H.R. 2658, making appropriations for the Department of De-

fense for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table, as follows:

Insert after section 8123 the following:

SEC. 8124. Of the amount appropriated by title II of this Act under the heading “OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD”, up to \$6,000,000 may be available for the National Homeland Security Training Center, Camp Gruber, Oklahoma.

**SA 1223.** Mr. GRAHAM of South Carolina (for himself and Mr. HOLINGS) submitted an amendment intended to be proposed by him to the bill H.R. 2658, making appropriations for the Department of Defense for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table, as follows:

Insert after section 8123 the following:

SEC. 8124. Of the appropriated by title IV of this Act under the heading “RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY”, up to \$6,000,000 may be available for Marine Corps Communications Systems (PE#0206313M) for the Critical Infrastructure Protection Center.

**SA 1224.** Mr. STEVENS (for Mr. INHOFE) proposed an amendment to amendment SA 1217 proposed by Mr. STEVENS to the bill H.R. 2658, making appropriations for the Department of Defense for the fiscal year ending September 30, 2004, and for other purposes; as follows:

Insert after section 8123 the following:

SEC. 8124. Of the amount appropriated by title IV of this Act under the heading “RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE”, up to \$4,000,000 may be available for cost effective composite materials for manned and unmanned flight structures (PE#0602103F).

**SA 1225.** Mr. STEVENS (for Mr. DODD) proposed an amendment to amendment SA 1217 proposed by Mr. STEVENS to the bill H.R. 2658, making appropriations for the Department of Defense for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 120, between lines 17 and 18, insert the following:

SEC. 8124. Of the total amount appropriated by title IV under the heading “RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY”, up to \$3,000,000 may be used for the Broad Area Unmanned Responsive Resupply Operations aircraft program.

**SA 1226.** Mr. STEVENS (for Ms. SNOWE (for herself and Ms. COLLINS)) proposed an amendment to amendment SA 1217 proposed by Mr. STEVENS to the bill H.R. 2658, making appropriations for the Department of Defense for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 120, between lines 17 and 18, insert the following:

SEC. 8124. Of the total amount appropriated by title II under the heading “OPERATION AND MAINTENANCE, NAVY” for civilian manpower and personnel management, up to \$1,500,000 may be used for Navy Pilot Human Resources Call Center, Cutler, Maine.

**SA 1227.** Mr. STEVENS (for Mr. BREAUX) proposed an amendment to



amendment SA 1217 proposed by Mr. STEVENS to the bill H.R. 2658, making appropriations for the Department of Defense for the fiscal year ending September 30, 2004, and for other purposes; as follows:

Insert after section 8123 the following:

SEC. 8124. Of the amount appropriated by title IV of this Act under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY", up to \$4,000,000 may be available for Navy Integrated Manufacturing Development.

**SA 1228.** Mr. GRAHAM of Florida (for himself and Mr. NELSON of Florida) submitted an amendment intended to be proposed by him to the bill H.R. 2658, making appropriations for the Department of Defense for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table, as follows:

Insert after section 8123 the following:

SEC. 8124. Of the amount appropriated by title II of this Act under the heading "OPERATION AND MAINTENANCE, NAVY", up to \$4,000,000 may be available for night vision goggles in advanced helicopter training.

**SA 1229.** Mr. CHAFEE submitted an amendment intended to be proposed by him to the bill H.R. 2658, supra; which was ordered to lie on the table; as follows:

Insert after section 8123 the following:

SEC. 8124. Of the amount appropriated by title IV of this Act under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY", up to \$1,500,000 may be available for the completion of the Rhode Island Disaster Initiative.

**SA 1230.** Mr. WYDEN (for himself and Mr. BYRD) submitted an amendment intended to be proposed by him to the bill H.R. 2658, supra; which was ordered to lie on the table; as follows:

On page 120, between lines 17 and 18, insert the following:

SEC. 8124. (a) None of the funds appropriated or otherwise made available by this Act or any other Act may be obligated or expended to enter into, modify, or extend any contract for reconstruction or other services in Iraq until the Secretary of Defense submits to Congress, in writing, a report that details—

(1) the process and standards for designing and awarding contracts for reconstruction and other services in Iraq, including assistance or consulting services provided by contractors in that process;

(2) the process and standards for awarding limited or sole-source contracts, including the criteria for justifying the awarding of such contracts;

(3) any policies that the Secretary has implemented or plans to implement to provide for independent oversight of the performance by a contractor of services in designing and awarding such contracts;

(4) any policies that the Secretary has implemented or plans to implement to identify, assess, and prevent any conflict of interest relating to reconstruction contracts;

(5) any policies that the Secretary has implemented or plans to implement to ensure public accountability of contractors and to identify any fraud, waste, or abuse relating to reconstruction contracts;

(6) the process and criteria used to determine the percentage of profit allowed on cost-plus-a-fixed-fee contracts for reconstruction or other services in Iraq; and

(7) a list of all such contracts and a good faith estimate of the expected costs and duration of all contracts for reconstruction or other services in Iraq.

(b) Not later than 90 days after the date of the enactment of this Act, and at the beginning of each quarter-year thereafter, the Secretary of Defense shall submit to Congress, in writing, a report that details—

(1) any changes made in the processes, policies, and standards set forth in the report submitted under subsection (a);

(2) the implementation and enforcement of the processes, policies, and standards for the designing, awarding, and oversight of contracts for reconstruction and other services in Iraq; and

(3) justifications for any changes in, or failure to implement, the processes, policies, and standards contained in such report.

**SA 1231.** Mr. BAYH (for himself and Mr. LUGAR) submitted an amendment intended to be proposed by him to the bill H.R. 2658, supra; which was ordered to lie on the table; as follows:

Insert after section 8123 the following:

SEC. 8124. Of the amount appropriated by title II of this Act under the heading "OPERATION AND MAINTENANCE, ARMY" up to \$15,000,000 may be made available for upgrades of M1A1 Abrams tank transmissions.

## NOTICES OF HEARINGS/MEETINGS

### SUBCOMMITTEE ON NATIONAL PARKS

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been scheduled before the Subcommittee on National Parks of the Committee on Energy and Natural Resources:

The hearing will be held on Thursday, July 24, 2003 at 2:30 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to conduct oversight of the competitive sourcing effort within the National Park Service. Specifically, the Subcommittee would like to gain a better understanding of the process for determining inherently governmental positions, the number of positions being evaluated, the time schedule and cost for the evaluation, the process for keeping personnel informed during the evaluation, the progress made to date, and the effect on National Park Service management responsibilities.

Because of the limited time available for the hearings, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD-366 Dirksen Senate Office Building, Washington, DC 20510-6150.

For further information, please contact Tom Lillie at (202) 224-5161 or Pete Lucero at (202) 224-6293.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON THE JUDICIARY

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Com-

mittee on the Judiciary be authorized to meet to conduct a hearing on "Proposed United States—Chile and United States—Singapore Free Trade Agreements" on Monday, July 14, 2003, at 4 p.m. in the Dirksen Senate Office Building Room 226.

### Witness List

Panel I: Regina Vargo, Assistant United States Trade Representative for the Americas, Lead Negotiator for the Chile Free Trade Agreement; and Ralph Ives, Assistant United States Trade Representative for Southeast Asia, the Pacific and APEC, Lead Negotiator for the Singapore Free Trade Agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGES OF THE FLOOR

Mr. INOUE. Mr. President, I ask unanimous consent that Ms. Kathleen Pierce, a legislative fellow assigned to my office, be afforded floor privileges during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that Aaron Ver, an intern for the Defense appropriations subcommittee, be granted privileges of the floor for the duration of the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that Eugene Moran, a fellow serving in Senator COCHRAN's office, be granted floor privileges during the consideration of this Defense appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that Kathryn Kolbe, a legislative fellow in the office of Senator KAY BAILEY HUTCHISON, be granted floor privileges during the consideration of the Defense appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, on behalf of Senator MIKULSKI, I ask unanimous consent that Michael Hadley, a defense fellow in her office, be granted the privilege of the floor during consideration of H.R. 2658, the Defense appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent, on behalf of Senator MCCAIN, that a legislative fellow, Navy CDR Edward Cowan, be granted the privilege of the floor during the consideration of H.R. 2658, the Defense appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROTECT ACT AMENDMENT

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 194, S. 1280.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1280) to amend the PROTECT Act to clarify certain volunteer liability.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment, as follows:

[Omit the part in black brackets and insert the part printed in italic.]

S. 1280

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## SECTION 1. AMENDMENT TO THE PROTECT ACT.

Section 108 of the PROTECT ACT (Public Law 108-21) is amended by adding at the end the following:

“(e) VOLUNTEER LIABILITY.—

“(1) IN GENERAL.—The National Center for Missing and Exploited Children, including any of its officers, employees, or agents, shall not be liable for damages of any kind in any civil action arising out of any action or communication by the National Center for Missing and Exploited Children, its officers, employees, or agents, in connection with any activities under this section.

“(2) EXCEPTION.—The limitation in paragraph (1) does not apply in any action in which the plaintiff proves that the National Center for Missing and Exploited Children, its officers, employees, or agents acted with actual malice, or provided information or took action for a purpose unrelated to an activity mandated by Federal law.”.]

*“(e) LIMITATION ON LIABILITY.—In connection with the Pilot Programs established under this section, in reliance upon the fitness criteria established under section 108(a)(3)(G)(i), and except upon proof of actual malice or intentional misconduct, the National Center for Missing and Exploited Children, or a director, officer, employee, or agent of the Center shall not be liable in any civil action for damages—*

*“(1) arising from any act or communication by the Center, the director, officer, employee, or agent that results in or contributes to a decision that an individual is unfit to serve as a volunteer for any volunteer organization;*

*“(2) alleging harm arising from a decision based on the information in an individual’s criminal history record that an individual is fit to serve as a volunteer for any volunteer organization unless the Center, the director, officer, employee, or agent is furnished with an individual’s criminal history records which they know to be inaccurate or incomplete, or which they know reflect a lesser crime than that for which the individual was arrested; and*

*“(3) alleging harm arising from a decision that, based on the absence of criminal history information, an individual is fit to serve as a volunteer for any volunteer organization unless the Center, the director, officer, employee, or agent knows that criminal history records exist and have not been furnished as required under this section.”.*

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the committee substitute be agreed to; that the bill, as amended, be read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment was agreed to.

The bill (S. 1280), as amended, was read the third time and passed, as follows:

S. 1280

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## SECTION 1. AMENDMENT TO THE PROTECT ACT.

Section 108 of the PROTECT ACT (Public Law 108-21) is amended by adding at the end the following:

“(e) LIMITATION ON LIABILITY.—In connection with the Pilot Programs established under this section, in reliance upon the fitness criteria established under section 108(a)(3)(G)(i), and except upon proof of actual malice or intentional misconduct, the National Center for Missing and Exploited Children, or a director, officer, employee, or agent of the Center shall not be liable in any civil action for damages—

“(1) arising from any act or communication by the Center, the director, officer, employee, or agent that results in or contributes to a decision that an individual is unfit to serve as a volunteer for any volunteer organization;

“(2) alleging harm arising from a decision based on the information in an individual’s criminal history record that an individual is fit to serve as a volunteer for any volunteer organization unless the Center, the director, officer, employee, or agent is furnished with an individual’s criminal history records which they know to be inaccurate or incomplete, or which they know reflect a lesser crime than that for which the individual was arrested; and

“(3) alleging harm arising from a decision that, based on the absence of criminal history information, an individual is fit to serve as a volunteer for any volunteer organization unless the Center, the director, officer, employee, or agent knows that criminal history records exist and have not been furnished as required under this section.”.

## NATIONAL GREAT BLACK AMERICANS COMMEMORATION ACT OF 2003

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 147, S. 1233.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1233) to authorize assistance for the National Great Blacks in Wax Museum and Justice Learning Center.

There being no objection, the Senate proceeded to consider the bill.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the bill be read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1233) was read the third time and passed, as follows:

S. 1233

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## SECTION 1. SHORT TITLE.

This Act may be cited as the “National Great Black Americans Commemoration Act of 2003”.

## SEC. 2. FINDINGS.

Congress finds the following:

(1) Black Americans have served honorably in Congress, in senior executive branch positions, in the law, the judiciary, and other fields, yet their record of service is not well known by the public, is not included in school history lessons, and is not adequately presented in the Nation’s museums.

(2) The Great Blacks in Wax Museum, Inc. in Baltimore, Maryland, a nonprofit organization, is the Nation’s first wax museum presenting the history of great Black Americans, including those who have served in Congress, in senior executive branch positions, in the law, the judiciary, and other fields, as well as others who have made significant contributions to benefit the Nation.

(3) The Great Blacks in Wax Museum, Inc. plans to expand its existing facilities to establish the National Great Blacks in Wax Museum and Justice Learning Center, which is intended to serve as a national museum and center for presentation of wax figures and related interactive educational exhibits portraying the history of great Black Americans.

(4) The wax medium has long been recognized as a unique and artistic means to record human history through preservation of the faces and personages of people of prominence, and historically, wax exhibits were used to commemorate noted figures in ancient Egypt, Babylon, Greece, and Rome, in medieval Europe, and in the art of the Italian renaissance.

(5) The Great Blacks in Wax Museum, Inc. was founded in 1983 by Drs. Elmer and Joanne Martin, 2 Baltimore educators who used their personal savings to purchase wax figures, which they displayed in schools, churches, shopping malls, and festivals in the mid-Atlantic region.

(6) The goal of the Martins was to test public reaction to the idea of a Black history wax museum and so positive was the response over time that the museum has been heralded by the public and the media as a national treasure.

(7) The museum has been the subject of feature stories by CNN, the Wall Street Journal, the Baltimore Sun, the Washington Post, the New York Times, the Chicago Sun Times, the Dallas Morning News, the Los Angeles Times, USA Today, the Afro American Newspaper, Crisis, Essence Magazine, and others.

(8) More than 300,000 people from across the Nation visit the museum annually.

(9) The new museum will carry on the time honored artistic tradition of the wax medium; in particular, it will recognize the significant value of this medium to commemorate and appreciate great Black Americans whose faces and personages are not widely recognized.

(10) The museum will employ the most skilled artisans in the wax medium, use state-of-the-art interactive exhibition technologies, and consult with museum professionals throughout the Nation, and its exhibits will feature the following:

(A) Blacks who have served in the Senate and House of Representatives of the United States, including those who represented constituencies in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Virginia during the 19th century.

(B) Blacks who have served in the judiciary, in the Department of Justice, as prominent attorneys, in law enforcement, and in the struggle for equal rights under the law.

(C) Black veterans of various military engagements, including the Buffalo Soldiers and Tuskegee Airmen, and the role of Blacks in the settlement of the western United States.

(D) Blacks who have served in senior executive branch positions, including members of Presidents' Cabinets, Assistant Secretaries and Deputy Secretaries of Federal agencies, and Presidential advisers.

(E) Other Blacks whose accomplishments and contributions to human history during the last millennium and to the Nation through more than 400 years are exemplary, including Black educators, authors, scientists, inventors, athletes, clergy, and civil rights leaders.

(11) The museum plans to develop collaborative programs with other museums, serve as a clearinghouse for training, technical assistance, and other resources involving use of the wax medium, and sponsor traveling exhibits to provide enriching museum experiences for communities throughout the Nation.

(12) The museum has been recognized by the State of Maryland and the city of Baltimore as a preeminent facility for presenting and interpreting Black history, using the wax medium in its highest artistic form.

(13) The museum is located in the heart of an area designated as an empowerment zone, and is considered to be a catalyst for economic and cultural improvements in this economically disadvantaged area.

#### SEC. 3. ASSISTANCE FOR NATIONAL GREAT BLACKS IN WAX MUSEUM AND JUSTICE LEARNING CENTER.

(a) ASSISTANCE FOR MUSEUM.—Subject to subsection (b), the Attorney General, acting through the Office of Justice Programs of the Department of Justice, shall, from amounts made available under subsection (c), make a grant to the Great Blacks in Wax Museum, Inc. in Baltimore, Maryland, to pay the Federal share of the costs of expanding and creating the National Great Blacks in Wax Museum and Justice Learning Center, including the cost of its design, planning, furnishing, and equipping.

(b) GRANT REQUIREMENTS.—

(1) IN GENERAL.—To receive a grant under subsection (a), the Great Blacks in Wax Museum, Inc. shall submit to the Attorney General a proposal for the use of the grant, which shall include detailed plans for the design, construction, furnishing, and equipping of the National Great Blacks in Wax Museum and Justice Learning Center.

(2) FEDERAL SHARE.—The Federal share of the costs described in subsection (a) shall not exceed 25 percent.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$15,000,000, to remain available until expended.

#### NOMINATION RECOMMITTED TO THE JUDICIARY COMMITTEE—CALENDAR NO. 298

Mr. MCCONNELL. Mr. President, as in executive session, I ask unanimous consent that Calendar No. 298, Christopher Wray, be recommitted to the Judiciary Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ORDERS FOR TUESDAY, JULY 15, 2003

Mr. MCCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Tuesday, July 15. I further ask unanimous consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period for morning business until 10:30 a.m., with the time equally divided between the two leaders or their designees, provided that, at 10:30 a.m., the Senate resume consideration of H.R. 2658, the DOD appropriations bill. I further ask unanimous consent that the Senate recess from 12:30 p.m. to 2:15 p.m. for the weekly party luncheons.

Mr. REID. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PROGRAM

Mr. MCCONNELL. Mr. President, for the information of all Senators, tomorrow the Senate will be in a period for morning business until 10:30 a.m. Following morning business, the Senate

will resume consideration of H.R. 2658, the Department of Defense appropriations bill. The chairman and ranking member were able to work through several amendments today, and the Senate will continue the amendment process tomorrow morning. Several Senators still wish to speak on the bill, and I encourage all Members who wish to offer an amendment to contact the chairman or the ranking member so they can schedule an orderly consideration of all amendments. We remain hopeful that the Senate can complete action on this vital appropriations bill during tomorrow's session.

#### ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. MCCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:27 p.m., adjourned until Tuesday, July 15, 2003, at 9:30 a.m.

#### NOMINATIONS

Executive nominations received by the Senate July 14, 2003:

##### DEPARTMENT OF JUSTICE

MARGARET CATHARINE RODGERS, OF FLORIDA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF FLORIDA, VICE LACEY A. COLLIER, RETIRING.

PAUL MICHAEL WARNER, OF UTAH, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF UTAH FOR THE TERM OF FOUR YEARS. (REAPPOINTMENT)

CRAIG S. ISCOE, OF THE DISTRICT OF COLUMBIA, TO BE ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS, VICE FREDERICK D. DORSEY, RETIRED.

#### CONFIRMATIONS

Executive nominations confirmed by the Senate July 14, 2003:

##### THE JUDICIARY

ROBERT C. BRACK, OF NEW MEXICO, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW MEXICO.

SAMUEL DER-YEGHIAYAN, OF ILLINOIS, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ILLINOIS.